



J. TYLER McCAULEY  
AUDITOR-CONTROLLER

**COUNTY OF LOS ANGELES  
DEPARTMENT OF AUDITOR-CONTROLLER**

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June 7, 2007

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

Dear Supervisors:

**RECOMMENDATION TO AWARD A CONTRACT  
FOR THE ANNUAL COUNTY FINANCIAL AUDIT  
(ALL DISTRICTS) (3 VOTES)**

**IT IS RECOMMENDED THAT YOUR BOARD:**

1. Award and instruct the Chairman of the Board to sign a three-year agreement with Macias Gini & O'Connell LLP to perform annual audits of the County's financial statements and grants as required by the Federal Single Audit Act, effective upon Board approval.
2. Authorize the Auditor-Controller to sign options to extend the agreement for up to two additional years.

**PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

This action will provide for continuation of annual audits of the County's financial statements and grants. The County annually receives approximately \$3.3 billion in federal funding. In order to continue to receive this funding, the Single Audit Act requires the County to have an annual audit performed by an independent audit firm. In addition, the County needs audited financial statements to demonstrate to the investment community (and the public) the accuracy of the County's accounting records and to verify the financial condition of the County.

### **IMPLEMENTATION OF STRATEGIC PLAN GOALS**

This action is consistent with the Countywide Strategic Plan, Goal 4, Fiscal Responsibility, by ensuring that the County's financial condition is reported accurately and in accordance with generally accepted accounting principles.

### **FISCAL IMPACT/FINANCING**

The proposed contract is for a three year term starting with the 2006-2007 audit, with a County option to renew for an additional two years. The maximum contract costs for the first, second, and third year are \$987,260, \$1,035,204, and \$1,089,726, respectively. If approved, the option to renew would be exercised at the discretion of the Auditor-Controller.

Funds are available in the 2006-2007 Nondepartmental Special Accounts budget to finance the 2006-2007 audit. Ongoing yearly appropriations will be necessary to finance subsequent years' audit costs.

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

The County is legally required under the Single Audit Act to have such an audit performed.

### **CONTRACTING PROCESS**

The Auditor-Controller sent invitations to bid to 24 accounting firms and also posted the solicitation information on the County of Los Angeles Online Web Site and Office of Small Business website. On April 11, 2007, the Request for Proposals (RFP) was sent to ten accounting firms which had responded to our invitation to bid. Two proposals, from Macias Gini & O'Connell LLP and KPMG LLP, were received by the May 14, 2007 submission deadline.

Representatives from the Auditor-Controller, Department of Public Works and Department of Health Services evaluated the two proposals. Macias Gini & O'Connell LLP was selected as the highest ranked firm to provide the required services. Although slightly higher in cost, the Macias Gini & O'Connell LLP proposal is recommended as the most responsive and the best value for meeting the needs of the County's annual financial audit.

Honorable Board of Supervisors  
June 7, 2007  
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**IMPACT ON CURRENT SERVICES (OR PROJECTS)**

None.

**CONCLUSION**

We have negotiated the attached contract, which has been approved as to form by County Counsel.

Upon execution by your Honorable Board, please return two original copies of the contract to the Auditor-Controller.

Respectfully submitted,



J. Tyler McCauley  
Auditor-Controller

JTM:JN:CY

Attachments (1)

c: Chief Administrative Officer  
Executive Officer, Board of Supervisors  
County Counsel



**CONTRACT**

**BY AND BETWEEN**

**COUNTY OF LOS ANGELES**

**AND**

**MACIAS GINI & O'CONNELL LLP**

**FOR**

**ANNUAL FINANCIAL AUDITS**

**JUNE 2007**

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**CONTRACT BETWEEN  
COUNTY OF LOS ANGELES  
AND  
MACIAS GINI & O'CONNELL LLP  
FOR  
ANNUAL FINANCIAL AUDITS**

This Contract and Exhibits made and entered into this 19th day of June, 2007 by and between the County of Los Angeles, hereinafter referred to as COUNTY and Macias Gini & O'Connell LLP, hereinafter referred to as CONTRACTOR. Macias Gini & O'Connell LLP is located at 515 S. Figueroa Street, Suite 325, Los Angeles, California 90071.

**RECITALS**

WHEREAS, the County desires to have its annual financial statements audited by an independent accounting firm to provide verified information to various interested parties; and

WHEREAS, the County is required to have a single organization-wide audit performed of all its federal grants in accordance with the Office of Management and Budget Circular A-133; and

WHEREAS, the County desires to have its GANN and California Local Transportation Fund audited by an independent accounting firm to provide verified information to various interested parties; and

WHEREAS, the Contractor is a private firm specializing in providing financial audit Services; and

NOW THEREFORE, in consideration of the mutual covenants contained herein, and for good and valuable consideration, the parties agree to the following:

## **1.0 APPLICABLE DOCUMENTS**

Exhibits A, B, C, D, E, F, G, H, I, and N are attached to and form a part of this Contract. In the event of any conflict or inconsistency in the definition or interpretation of any word, responsibility, schedule, or the contents or description of any task, deliverable, goods, service, or other work, or otherwise between the base Contract and the Exhibits, or between Exhibits, such conflict or inconsistency shall be resolved by giving precedence first to the Contract and then to the Exhibits according to the following priority.

### **Standard Exhibits:**

- 1.1 EXHIBIT A - Statement of Work
- 1.2 EXHIBIT B - Pricing Schedule
- 1.3 EXHIBIT C - Board of Supervisors Policy 6.109 and 6.110
- 1.4 EXHIBIT D - Contractor's EEO Certification
- 1.5 EXHIBIT E - County's Administration
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### **Health Insurance Portability & Accountability Act (HIPAA) Agreement**

- 1.14 EXHIBIT N - Contractor's Obligations as a "Business Associate"  
Under the Health Insurance Portability & Accountability  
Act of 1996 (HIPAA)
- 1.15 EXHIBIT O - Intentionally Omitted

This Contract and the Exhibits hereto constitute the complete and exclusive statement of understanding between the parties, and supersedes all previous Contracts, written and oral, and all communications between the parties relating to the subject matter of this Contract. No change to this Contract shall be valid unless prepared pursuant to Sub-paragraph 8.1 - Amendments and signed by both parties.

## **2.0 DEFINITIONS**

The headings contained in this document are for convenience and reference only and are not intended to define the scope of any provision. The following words shall be construed to have the following meaning, unless otherwise apparent from the context in which they are used.

- 2.1 Contract:** Agreement between County and Contractor. It sets forth the terms and conditions for the performance of the Statement of Work, Exhibit A.
- 2.2 Contractor:** The legal entity has entered into a contract with the County to perform or execute the work covered by the Statement of Work.
- 2.3 Contractor Project Manager:** The individual designated by the Contractor to administer the Contract operations after the Contract award.
- 2.4 County Contract Project Monitor:** Person with responsibility to oversee the day to day activities of this Contract. Responsibility for inspections of any and all tasks, deliverables, goods, services and other work provided by the Contractor.
- 2.5 County Contract Administrator:** Person designated by County with authority for County on contractual or administrative matters relating to this Contract that cannot be resolved by the County's Project Manager.
- 2.6 County Project Manager:** Person designated by County's Project Administrator to manage the operations under this Contract.
- 2.7 Day(s):** Calendar day(s) unless otherwise specified.

- 2.8 Fiscal Year:** The twelve (12) month period beginning July 1st and ending the following June 30th.

### **3.0 WORK**

- 3.1 The Contractor must fully perform, complete and deliver on time, all tasks, deliverables, services and other work as set forth in this Contract according to its provisions.
- 3.2 If the Contractor provides any tasks, deliverables, goods, services, or other work, other than as specified in this Contract, the same shall be deemed to be a gratuitous effort on the part of the Contractor, and the Contractor shall have no claim whatsoever against the County.

### **4.0 TERM OF CONTRACT**

- 4.1 The term of this Contract shall be three (3) years commencing after execution by County's Board of Supervisors, unless sooner terminated or extended, in whole or in part, as provided in this Contract.
- 4.2 The County shall have the sole option to extend this Contract term for up to two (2) additional one-year periods, for a maximum total Contract term of five (5) years. Each such option to extend must be exercised individually by County's Contract Administrator.

### **5.0 CONTRACT SUM**

- 5.1 Contractor shall bill the County for services as described in the Statement of Work Exhibit A according to the Pricing Schedule Exhibit B. The cost to the County for the audits and related services as described in the Statement of Work Exhibit A may not exceed the amount(s) indicated in the Pricing Schedule Exhibit B. If the Contractor's actual billings for any fiscal year exceed the maximum cost as defined in Pricing Schedule Exhibit B, the Contractor must nevertheless complete the work at no additional charge to the County.
- 5.2 The Contractor shall not be entitled to payment or reimbursement for any tasks or services performed, nor for any incidental or

administrative expenses whatsoever incurred in or incidental to performance except as specified in the agreement. Contractor agrees that it will not seek or permit any assumption or takeover of any of the Contractor's duties, responsibilities, or obligations, or performance of same by any entity other than the Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever, without the County's express prior written approval.

- 5.3 The Contractor shall maintain a system of record keeping that will allow the Contractor to determine when it has incurred seventy-five percent (75%) of the total contract authorization under this Contract. Upon occurrence of this event, the Contractor shall send written notification to the Department of Auditor-Controller at the address provided in *Exhibit E - County's Administration*.

**5.4 No Payment for Services Provided Following Expiration/Termination of Contract**

The Contractor shall have no claim against County for payment of any money or reimbursement, of any kind whatsoever, for any service provided by the Contractor after the expiration or other termination of this Contract. Should the Contractor receive any such payment it shall immediately notify County and shall immediately repay all such funds to County. Payment by County for services rendered after expiration/termination of this Contract shall not constitute a waiver of County's right to recover such payment from the Contractor. This provision shall survive the expiration or other termination of this Contract.

**5.5 Invoices and Payments**

- 5.5.1 The Contractor shall invoice the County only for providing the tasks, deliverables, goods, services, and other work specified in *Exhibit A - Statement of Work* and elsewhere in

this Contract. The Contractor shall prepare invoices, for the charges owed to the Contractor by the County under the terms of this Contract. The Contractor's payments shall be as provided in *Exhibit B - Pricing Schedule*, and the Contractor shall be paid only for the tasks, deliverables, goods, services, and other work approved in writing by the County. If the County does not approve work in writing no payment shall be due to the Contractor for that work.

5.5.2 The Contractor's invoices shall be priced in accordance with *Exhibit B - Pricing Schedule*.

5.5.3 The Contractor's invoices shall contain the information set forth below:

- a) The agreement number under which the work was performed.
- b) Invoice period.
- c) Total number of hours billed in the invoice period broken out by the staffing categories in *Exhibit B - Pricing Schedule*.
- d) An itemized listing of any additional amounts being billed.
- e) Total dollar amount billed in the invoice period.

*Exhibit A - Statement of Work* describes the tasks, deliverables, goods, services, work hours, and facility and/or other work for which payment is claimed.

5.5.4 The Contractor shall submit the monthly invoices to the County by the 15<sup>th</sup> calendar day of the month following the month of service.

5.5.5 All invoices under this Contract shall be submitted in two (2) copies to the following address:

Auditor-Controller  
Accounting Division

500 West Temple Street, Room 603  
Los Angeles, CA 90012

**5.5.6 County Approval of Invoices.** All invoices submitted by the Contractor for payment must have the written approval of the County's Project Manager prior to any payment of them. In no event shall the County be liable or responsible for any payment prior to such written approval. Approval for payment will not be unreasonably withheld.

**5.5.6.1** The County will withhold 10% of billings until delivery of all reports listed in *Exhibit A - Statement of Work*.

**5.5.7 Local Small Business Enterprises – Prompt Payment Program**

Certified Local SBEs will receive prompt payment for services they provide to County departments. Prompt payment is defined as 15 calendar days after receipt of an undisputed invoice.

**6.0 ADMINISTRATION OF CONTRACT - COUNTY**

**COUNTY ADMINISTRATION**

A listing of all County Administration referenced in the following Sub-paragraphs are designated in *Exhibit E - County's Administration*. The County shall notify the Contractor in writing of any change in the names or addresses shown.

**6.1 County's Contract Administrator**

County's Contract Administrator is its Auditor-Controller:

J. Tyler McCauley  
Auditor-Controller  
525 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, CA 90012

6.1.2 The County Contract Administrator shall assign a designated member of his staff as the County Project Manager to serve as the County's liaison with the Contractor.

6.1.3 County shall notify Contractor in writing of any change in the name or address of the County Contract Administrator.

**6.2 County's Project Manager**

The County will administer the Contract according to the Contract. The County Project Manager or his designee shall oversee Contractor's performance under this Contract. The County Project Manager is responsible for monitoring the performance of Contractor's personnel in completing the Contract, and ensuring that this Contract's objectives are met. The County Project Manager is also responsible for:

- A. Monitoring and reporting performance and progress of the project to the County Contract Administrator.
- B. Evaluating Contractor's technical performance.
- C. Reviewing and approving project tasks, deliverables, services, and other work.
- D. Accepting project tasks, deliverables, services, and other work.
- E. Reviewing and approving all requested extensions of the Contract periods of performance.
- F. Mediating disputes, if any, that arise during the course of completing the project between Contractor's Project Manager and County personnel.
- G. Discussing Contractor's personnel work performance with Contractor's Project Manager on a regular basis.
- H. Providing direction to Contractor in the areas relating to County policy, information requirements, and procedural requirements.
- I. Assessing whether the technical standards and task requirements articulated in the Contract are satisfactorily complied with, and providing, on request, such information and



documents as may be reasonably required by Contractor to perform the project.

6.2.1 The County Project Manager or his designee shall coordinate with the Contractor Project Manager(s) on a regular basis, and shall have the right at all times to inspect any and all tasks, deliverables, services, or other work performed by or on behalf of Contractor.

6.2.2 Except as expressly set forth in Change Notices and Amendments, the County Contract Administrator, the County Project Manager, and their designees are not authorized to make any changes in the Contract, *Exhibit A - Statement of Work*, or in the terms and conditions of this Contract, and are not authorized to further obligate County in any respect whatsoever.

6.2.3 County shall notify Contractor in writing of any change in the name or address of the County Project Manager.

### **6.3 Furnished Items**

6.3.1 The purchase of all materials/equipment to provide the needed services is the responsibility of the Contractor. Contractor shall use materials and equipment that are safe for the environment and safe for use by the employee.

6.3.2 The County Project Manager will arrange for reasonable office space, desks, tables, chairs, and phones to the extent Contractor necessarily performs services on County premises. Parking in the Civic Center area must be arranged for and separately paid by Contractor staff. Contractor staff will be afforded access to County's parking facilities in other locations without charge to the extent reasonably feasible.

## **7.0 ADMINISTRATION OF CONTRACT - CONTRACTOR**

### **7.1 Contractor's Project Manager**

7.1.1 Contractor shall assign a Project Manager of the audit who is authorized to act for and bind the Contractor in all matters relating to the contract. The Contractor's Project

Manager is designated in *Exhibit F - Contractor's Administration*. The Contractor shall notify the County in writing of any change in the name or address of the Contractor's Project Manager.

7.1.2 The Contractor's Project Manager shall be responsible for the Contractor's day-to-day activities as related to this Contract and shall coordinate with County's Project Manager on a regular basis.

7.1.3 The Contractor's Project Manager shall act as a central point of contact with the County, and may designate an alternate to act in his/her absence. Project Manager shall demonstrate previous experience in the management of work requirement for projects similar in size and complexity.

## **7.2 Personnel**

7.2.1 Contractor shall assign a sufficient number of employees to perform the required work.

7.2.2 Contractor shall offer qualified personnel to satisfy County stated deliverable requirements as set forth in the contract.

7.2.3 Contractor shall not replace or remove, without the prior written permission of the County Project Manager or his designee, project personnel who have been approved by County, except for serious illness, death, employment termination, and other like causes beyond Contractor's control.

7.2.4 In those cases where reassignment is requested by an employee of Contractor, Contractor shall furnish County with written notice of any such request for reassignment and shall not make such assignment without the written approval of the County Project Manager or designee.

7.2.5 In the event of termination of employment by an employee of Contractor for any reason, Contractor shall provide County with as much advance notice as is reasonably possible. Contractor must use its best efforts to replace reassigned or terminated employees within five (5) business days of such reassignment or termination.

7.2.6 County has the absolute right to approve or disapprove all of the Contractor's staff performing work under this Contract and any proposed changes in the Contractor's staff, including, but not limited to, the Contractor's Project Manager. In each instance, Contractor shall provide the County Project Manager or his designee with a resume of the proposed replacement(s) and an opportunity to interview the person(s) prior to County giving its approval or disapproval. Notwithstanding any other provision of this Contract, the County Project Manager or his designee may, in his sole discretion, reject any Contractor personnel at any time for any reason or for no reason whatsoever. In the event of any such rejection, Contractor shall propose substitute qualified personnel for County approval.

**7.3 Contractor's Staff Identification**

Contractor shall provide, at Contractor's expense, all staff providing services under this Contract with a photo identification badge identifying employee by name, physical description, and company. Such badge shall be displayed on employee's person at all times he/she is on County designated property.

**7.4 Background and Security Investigations**

7.4.1 At any time prior to or during the term of this Contract, the County may require that all Contractor's staff performing work under this Contract undergo and pass, to the satisfaction of County, a background investigation, as a

condition of beginning and continuing to work under this Contract. County shall use its discretion in determining the method of background clearance to be used, up to and including a County performed fingerprint security clearance. Obtaining the background information shall be at the expense of the Contractor, regardless if the Contractor's staff passes or fails the background clearance investigation.

7.4.2 County may request that the Contractor's staff be immediately removed from working on the County Contract at any time during the term of this Contract. County will not provide to the Contractor nor to the Contractor's staff any information obtained through the County conducted background clearance.

7.4.3 County may immediately, at the sole discretion of the County, deny or terminate facility access to the Contractor's staff who do not pass such investigation(s) to the satisfaction of the County or whose background or conduct is incompatible with County facility access.

7.4.4 Disqualification, if any, of the Contractor's staff, under this Sub-paragraph 7.4, shall not relieve the Contractor of its obligation to complete all work in accordance with the terms and conditions of this Contract.

## **7.5 Confidentiality**

7.5.1 The Contractor shall maintain the confidentiality of all records obtained from the County under this Contract in accordance with all applicable federal, State or local laws, ordinances, regulations and directives relating to confidentiality. Also, CONTRACTOR must report any information technology-related security incidents that either (1) could materially affect work performed by CONTRACTOR under a County contract, or (2) relate to

work performed by CONTRACTOR under a County contract, including the compromise of County data or data obtained from other sources on the County's behalf, to the County's Contract Administrator and the affected County department or agency in accordance with Policy 6.109 (See Exhibit C). CONTRACTOR must comply with Board of Supervisors Policy 6.110, "Protection of Information on Portable Computing Devices." (See Exhibit C)

7.5.2 The Contractor shall inform all of its officers, employees, agents and subcontractors providing services hereunder of the confidentiality provisions of this Contract.

7.5.3 The Contractor shall sign and adhere to the provisions of the "Contractor Acknowledgement and Confidentiality Agreement", Exhibit G1.

**7.6 Materials and Equipment**

The purchase of all materials/equipment to provide the needed services is the responsibility of the Contractor. Contractor shall use materials and equipment that are safe for the environment and safe for use by the employee.

**7.7 Training**

Contractor shall provide appropriate training programs for the staff identified for participation in the engagement, with particular reference to governmental accounting and auditing, governmental practices and procedures, and governmental affairs.

**7.8 Contractor's Office**

Contractor shall maintain an office with a telephone in the company's name where Contractor conducts business and have available staff in a local office with requisite qualifications and experience in the areas of specialization expertise required to complete the engagement. The office shall be staffed during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, by at least

one employee who can respond to inquiries and complaints which may be received about the Contractor's performance of the Contract.

## **8.0 STANDARD TERMS AND CONDITIONS**

### **8.1 AMENDMENTS**

County reserves the right to change any portion of the work required under this contract by a negotiated Amendment to this Contract prepared and executed by the County's Board of Supervisors and the Contractor.

8.1.1 For any change which affects the scope of work, term, Contract Sum, payments, or any material term or condition included under this Contract, other than as provided for by Section 8.1.2 below, an Amendment shall be prepared and executed by the Contractor and by the Board of Supervisors.

8.1.2 The County's Board of Supervisors or Chief Administrative Officer or designee may require the addition and/or change of certain terms and conditions in the Contract during the term of this Contract. The County reserves the right to add and/or change such provisions as required by the County's Board of Supervisors or Chief Administrative Officer. To implement such changes, an Amendment to the Contract shall be prepared and executed by the Contractor's Project Manager and County's Contract Administrator.

8.1.3 The Department of Auditor-Controller, may at his/her sole discretion, authorize extensions of time as defined in Paragraph 4.0 – *Statement of Work – Exhibit A Report Deliverables*. The Contractor agrees that such extensions of time shall not change any other term or condition of this Contract during the period of such extensions. To implement an extension of time, an Amendment to the Contract shall be

prepared and executed by the Contractor's Project Manager and by the County's Contract Administrator.

- 8.1.4 Engagement letters, which are an industry practice, will not be executed. This contract serves the same purpose as an Engagement letter.

## **8.2 ASSIGNMENT AND DELEGATION**

- 8.2.1 The Contractor shall not assign its rights or delegate its duties under this Contract, or both, whether in whole or in part, without the prior written consent of County, in its discretion, and any attempted assignment or delegation without such consent shall be null and void. For purposes of this sub-paragraph, County consent shall require a written amendment to the Contract, which is formally approved and executed by the parties. Any payments by the County to any approved delegate or assignee for any work under this Contract shall be deductible, at County's sole discretion, against the claims, which the Contractor has against the County for the Contract Sum.
- 8.2.2 Shareholders, partners, members, or other equity holders of Contractor may transfer, sell, exchange, assign, or divest themselves of any interest they may have in Contractor. However, in the event any such sale, transfer, exchange, assignment, or divestment is effected in such a way as to give majority control of Contractor to any person(s), corporation, partnership, or legal entity other than the majority controlling interest therein at the time of execution of the Contract, such disposition is an assignment requiring the prior written consent of County in accordance with applicable provisions of this Contract.
- 8.2.3 Any assumption, assignment, delegation, or takeover of any of the Contractor's duties, responsibilities, obligations, or

performance of same by any entity other than the Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever without County's express prior written approval, is a material breach of the Contract under which the County may terminate this Contract for default as provided in subparagraph 8.42.

### **8.3 AUTHORIZATION WARRANTY**

The Contractor represents and warrants that the person executing this Contract for the Contractor is an authorized agent who has actual authority to bind the Contractor to each and every term, condition, and obligation of this Contract and that all requirements of the Contractor have been fulfilled to provide such actual authority.

### **8.4 BUDGET REDUCTIONS**

In the event that the County's Board of Supervisors adopts, in any fiscal year, a County Budget which provides for reductions in the salaries and benefits paid to the majority of County employees and imposes similar reductions with respect to County Contracts, the parties agree to confer and negotiate in good faith concerning the extent to which a reduction of the County's payment obligation, and a corresponding reduction of services under the Contract is practicable, and if so, to amend this Contract under subparagraph 8.1.1.

### **8.5 COMPLAINTS**

The Contractor shall develop, maintain and operate procedures for receiving, investigating and responding to complaints.

8.5.1 Within thirty (30) business days after Contract effective date, the Contractor shall provide the County with the Contractor's policy for receiving, investigating and responding to user complaints.



- 8.5.2 The County will review the Contractor's policy and provide the Contractor with approval of said plan or with requested changes.
- 8.5.3 If the County requests changes in the Contractor's policy, the Contractor shall make such changes and resubmit the plan within five (5) business days for County approval.
- 8.5.4 If, at any time, the Contractor wishes to change the Contractor's policy, the Contractor shall submit proposed changes to the County for approval before implementation.
- 8.5.5 The Contractor shall preliminarily investigate all complaints and notify the County's Project Manager of the status of the investigation within five (5) business days of receiving the complaint.
- 8.5.6 When complaints cannot be resolved informally, a system of follow-through shall be instituted which adheres to formal plans for specific actions and strict time deadlines.
- 8.5.7 Copies of all written responses shall be sent to the County's Project Manager within three (3) business days of mailing to the complainant.

## **8.6 COMPLIANCE WITH APPLICABLE LAW**

- 8.6.1 The Contractor shall comply with all applicable Federal, State, and local laws, rules, regulations, ordinances, and directives, and all provisions required thereby to be included in this Contract are hereby incorporated herein by reference.
- 8.6.2 The Contractor shall indemnify and hold harmless the County from and against any and all liability, damages, costs, and expenses, including, but not limited to, defense costs and attorneys' fees, arising from or related to any violation on the part of the Contractor or its employees, agents, or subcontractors of any such laws, rules, regulations, ordinances, or directives.

## **8.7 COMPLIANCE WITH CIVIL RIGHTS LAWS**

The Contractor hereby assures that it will comply with Subchapter VI of the Civil Rights Act of 1964, 42 USC Sections 2000 (e) (1) through 2000 (e) (17), to the end that no person shall, on the grounds of race, creed, color, sex, religion, ancestry, age, condition of physical handicap, marital status, political affiliation, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Contract or under any project, program, or activity supported by this Contract. The Contractor shall comply with *Exhibit D - Contractor's EEO Certification*.

## **8.8 COMPLIANCE WITH THE COUNTY'S JURY SERVICE PROGRAM**

### **8.8.1 Jury Service Program:**

This Contract is subject to the provisions of the County's ordinance entitled Contractor Employee Jury Service ("Jury Service Program") as codified in Sections 2.203.010 through 2.203.090 of the Los Angeles County Code, a copy of which is attached as *Exhibit H* and incorporated by reference into and made a part of this Contract.

### **8.8.2 Written Employee Jury Service Policy.**

1. Unless the Contractor has demonstrated to the County's satisfaction either that the Contractor is not a "Contractor" as defined under the Jury Service Program (Section 2.203.020 of the County Code) or that the Contractor qualifies for an exception to the Jury Service Program (Section 2.203.070 of the County Code), the Contractor shall have and adhere to a written policy that provides that its Employees shall receive from the Contractor, on an annual basis, no less than five days of regular pay for actual jury service. The policy may

provide that Employees deposit any fees received for such jury service with the Contractor or that the Contractor deduct from the Employee's regular pay the fees received for jury service.

2. For purposes of this Sub-paragraph, "Contractor" means a person, partnership, corporation or other entity which has a contract with the County or a subcontract with a County Contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more County contracts or subcontracts. "Employee" means any California resident who is a full-time employee of the Contractor. "Full-time" means 40 hours or more worked per week, or a lesser number of hours if: 1) the lesser number is a recognized industry standard as determined by the County, or 2) Contractor has a long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of 90 days or less within a 12-month period are not considered full-time for purposes of the Jury Service Program. If the Contractor uses any Subcontractor to perform services for the County under the Contract, the Subcontractor shall also be subject to the provisions of this Sub-paragraph. The provisions of this Sub-paragraph shall be inserted into any such subcontract agreement and a copy of the Jury Service Program shall be attached to the agreement.
3. If the Contractor is not required to comply with the Jury Service Program when the Contract commences, the Contractor shall have a continuing obligation to review the applicability of its "exception status" from the Jury

Service Program, and the Contractor shall immediately notify the County if the Contractor at any time either comes within the Jury Service Program's definition of "Contractor" or if the Contractor no longer qualifies for an exception to the Jury Service Program. In either event, the Contractor shall immediately implement a written policy consistent with the Jury Service Program. The County may also require, at any time during the Contract and at its sole discretion, that the Contractor demonstrate to the County's satisfaction that the Contractor either continues to remain outside of the Jury Service Program's definition of "Contractor" and/or that the Contractor continues to qualify for an exception to the Program.

4. Contractor's violation of this Sub-paragraph of the Contract may constitute a material breach of the Contract. In the event of such material breach, County may, in its sole discretion, terminate the Contract and/or bar the Contractor from the award of future County contracts for a period of time consistent with the seriousness of the breach.

## **8.9 CONFLICT OF INTEREST**

- 8.9.1 No County employee whose position with the County enables such employee to influence the award of this Contract or any competing Contract, and no spouse or economic dependent of such employee, shall be employed in any capacity by the Contractor or have any other direct or indirect financial interest in this Contract. No officer or employee of the Contractor who may financially benefit from the performance of work hereunder shall in any way participate in the County's approval, or ongoing evaluation,

of such work, or in any way attempt to unlawfully influence the County's approval or ongoing evaluation of such work.

8.9.2 The Contractor shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Contract. The Contractor warrants that it is not now aware of any facts that create a conflict of interest. If the Contractor hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to the County. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances. Failure to comply with the provisions of this Sub-paragraph shall be a material breach of this Contract.

**8.10 CONSIDERATION OF HIRING COUNTY EMPLOYEES  
TARGETED FOR LAYOFF/OR RE-EMPLOYMENT LIST**

Should the Contractor require additional or replacement personnel after the effective date of this Contract to perform the services set forth herein, the Contractor shall give first consideration for such employment openings to qualified, permanent County employees who are targeted for layoff or qualified, former County employees who are on a re-employment list during the life of this Contract.

**8.11 CONSIDERATION OF HIRING GAIN/GROW PROGRAM  
PARTICIPANTS**

8.11.1 Should the Contractor require additional or replacement personnel after the effective date of this Contract, the Contractor shall give consideration for any such employment openings to participants in the County's Department of Public Social Services Greater Avenues for Independence (GAIN) Program or General Relief

Opportunity for Work (GROW) Program who meet the Contractor's minimum qualifications for the open position. For this purpose, consideration shall mean that the Contractor will interview qualified candidates. The County will refer GAIN/GROW participants by job category to the Contractor.

- 8.11.2 In the event that both laid-off County employees and GAIN/GROW participants are available for hiring, County employees shall be given first priority.

## **8.12 CONTRACTOR RESPONSIBILITY AND DEBARMENT**

### **8.12.1 Responsible Contractor**

A responsible Contractor is a Contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the contract. It is the County's policy to conduct business only with responsible Contractors.

### **8.12.2 Chapter 2.202 of the County Code**

The Contractor is hereby notified that, in accordance with Chapter 2.202 of the County Code, if the County acquires information concerning the performance of the Contractor on this or other contracts which indicates that the Contractor is not responsible, the County may, in addition to other remedies provided in the Contract, debar the Contractor from bidding or proposing on, or being awarded, and/or performing work on County contracts for a specified period of time, which generally will not exceed five years but may exceed five years or be permanent if warranted by the circumstances, and terminate any or all existing Contracts the Contractor may have with the County.

### **8.12.3 Non-responsible Contractor**

The County may debar a Contractor if the Board of Supervisors finds, in its discretion, that the Contractor has done any of the following: (1) violated a term of a contract with the County or a nonprofit corporation created by the County, (2) committed an act or omission which negatively reflects on the Contractor's quality, fitness or capacity to perform a contract with the County, any other public entity, or a nonprofit corporation created by the County, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against the County or any other public entity.

#### **8.12.4 Contractor Hearing Board**

1. If there is evidence that the Contractor may be subject to debarment, the Department will notify the Contractor in writing of the evidence which is the basis for the proposed debarment and will advise the Contractor of the scheduled date for a debarment hearing before the Contractor Hearing Board.
2. The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Contractor and/or the Contractor's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a tentative proposed decision, which shall contain a recommendation regarding whether the Contractor should be debarred, and, if so, the appropriate length of time of the debarment. The Contractor and the Department shall be provided an opportunity to object

to the tentative proposed decision prior to its presentation to the Board of Supervisors.

3. After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision, and any other recommendation of the Contractor Hearing Board shall be presented to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.
4. If a Contractor has been debarred for a period longer than five (5) years, that Contractor may after the debarment has been in effect for at least five (5) years, submit a written request for review of the debarment determination to reduce the period of debarment or terminate the debarment. The County may, in its discretion, reduce the period of debarment or terminate the debarment if it finds that the Contractor has adequately demonstrated one or more of the following: (1) elimination of the grounds for which the debarment was imposed; (2) a bona fide change in ownership or management; (3) material evidence discovered after debarment was imposed; or (4) any other reason that is in the best interests of the County.
5. The Contractor Hearing Board will consider a request for review of a debarment determination only where (1) the Contractor has been debarred for a period longer than five (5) years; (2) the debarment has been in effect for at least five (5) years; and (3) the request is in writing, states one or more of the grounds for



reduction of the debarment period or termination of the debarment, and includes supporting documentation. Upon receiving an appropriate request, the Contractor Hearing Board will provide notice of the hearing on the request. At the hearing, the Contractor Hearing Board shall conduct a hearing where evidence on the proposed reduction of debarment period or termination of debarment is presented. This hearing shall be conducted and the request for review decided by the Contractor Hearing Board pursuant to the same procedures as for a debarment hearing.

6. The Contractor Hearing Board's proposed decision shall contain a recommendation on the request to reduce the period of debarment or terminate the debarment. The Contractor Hearing Board shall present its proposed decision and recommendation to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.

#### **8.12.5 Subcontractors of Contractor**

These terms shall also apply to Subcontractors of County Contractors.

#### **8.13 CONTRACTOR'S ACKNOWLEDGEMENT OF COUNTY'S COMMITMENT TO THE SAFELY SURRENDERED BABY LAW**

The Contractor acknowledges that the County places a high priority on the implementation of the Safely Surrendered Baby Law. The Contractor understands that it is the County's policy to encourage all County Contractors to voluntarily post the County's "Safely Surrendered Baby Law" poster in a prominent position at the

Contractor's place of business. The Contractor will also encourage its Subcontractors, if any, to post this poster in a prominent position in the Subcontractor's place of business. The County's Department of Children and Family Services will supply the Contractor with the poster to be used. Information on how to receive the poster can be found on the Internet at [www.babysafela.org](http://www.babysafela.org).

**8.14 CONTRACTOR'S WARRANTY OF ADHERENCE TO COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM**

8.14.1 The Contractor acknowledges that the County has established a goal of ensuring that all individuals who benefit financially from the County through Contract are in compliance with their court-ordered child, family and spousal support obligations in order to mitigate the economic burden otherwise imposed upon the County and its taxpayers.

8.14.2 As required by the County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting the Contractor's duty under this Contract to comply with all applicable provisions of law, the Contractor warrants that it is now in compliance and shall during the term of this Contract maintain in compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholding Orders or Child Support Services Department Notices of Wage and Earnings Assignment for Child, Family or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

**8.15 COUNTY'S QUALITY ASSURANCE PLAN**

The County or its agent will evaluate the Contractor's performance

under this Contract on not less than an annual basis. Such evaluation will include assessing the Contractor's compliance with all Contract terms and conditions and performance standards. Contractor deficiencies which the County determines are severe or continuing and that may place performance of the Contract in jeopardy if not corrected will be reported to the Board of Supervisors. The report will include improvement/corrective action measures taken by the County and the Contractor. If improvement does not occur consistent with the corrective action measures, the County may terminate this Contract or impose other penalties as specified in this Contract.

#### **8.16 DAMAGE TO COUNTY FACILITIES, BUILDINGS OR GROUNDS**

8.16.1 The Contractor shall repair, or cause to be repaired, at its own cost, any and all damage to County facilities, buildings, or grounds caused by the Contractor or employees or agents of the Contractor. Such repairs shall be made immediately after the Contractor has become aware of such damage, but in no event later than thirty (30) days after the occurrence.

8.16.2 If the Contractor fails to make timely repairs, County may make any necessary repairs. All costs incurred by County, as determined by County, for such repairs shall be repaid by the Contractor by cash payment upon demand.

#### **8.17 EMPLOYMENT ELIGIBILITY VERIFICATION**

8.17.1 The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirements set forth in Federal and State statutes and regulations. The Contractor shall obtain, from all employees performing work hereunder, all verification

and other documentation of employment eligibility status required by Federal and State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, (P.L. 99-603), or as they currently exist and as they may be hereafter amended. The Contractor shall retain all such documentation for all covered employees for the period prescribed by law.

8.17.2 The Contractor shall indemnify, defend, and hold harmless, the County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.

#### **8.18 FACSIMILE REPRESENTATIONS**

The County and the Contractor hereby agree to regard facsimile representations of original signatures of authorized officers of each party, when appearing in appropriate places on the Amendments prepared pursuant to Sub-paragraph 8.1, and received via communications facilities, as legally sufficient evidence that such original signatures have been affixed to Amendments to this Contract, such that the parties need not follow up facsimile transmissions of such documents with subsequent (non-facsimile) transmission of "original" versions of such documents.

#### **8.19 FAIR LABOR STANDARDS**

The Contractor shall comply with all applicable provisions of the Federal Fair Labor Standards Act and shall indemnify, defend, and hold harmless the County and its agents, officers, and employees from any and all liability, including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs, and

attorneys' fees arising under any wage and hour law, including, but not limited to, the Federal Fair Labor Standards Act, for work performed by the Contractor's employees for which the County may be found jointly or solely liable.

#### **8.20 GOVERNING LAW, JURISDICTION, AND VENUE**

This Contract shall be governed by, and construed in accordance with, the laws of the State of California. The Contractor agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding this Contract and further agrees and consents that venue of any action brought hereunder shall be exclusively in the County of Los Angeles.

#### **8.21 INDEPENDENT CONTRACTOR STATUS**

8.21.1 This Contract is by and between the County and the Contractor and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between the County and the Contractor. The employees and agents of one party shall not be, or be construed to be, the employees or agents of the other party for any purpose whatsoever.

8.21.2 The Contractor shall be solely liable and responsible for providing to, or on behalf of, all persons performing work pursuant to this Contract all compensation and benefits. The County shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, disability benefits, Federal, State, or local taxes, or other compensation, benefits, or taxes for any personnel provided by or on behalf of the Contractor.

8.21.3 The Contractor understands and agrees that all persons performing work pursuant to this Contract are, for purposes of Workers' Compensation liability, solely employees of the Contractor and not employees of the County. The

Contractor shall be solely liable and responsible for furnishing any and all Workers' Compensation benefits to any person as a result of any injuries arising from or connected with any work performed by or on behalf of the Contractor pursuant to this Contract.

8.21.4 The Contractor shall adhere to the provisions stated in Sub-paragraph 7.5 - Confidentiality.

## **8.22 INDEMNIFICATION**

The Contractor shall indemnify, defend and hold harmless the County, its Special Districts, elected and appointed officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees), arising from or connected with the Contractor's acts and/or omissions arising from and/or relating to this Contract.

## **8.23 GENERAL INSURANCE REQUIREMENTS**

Without limiting the Contractor's indemnification of the County and during the term of this Contract, the Contractor shall provide and maintain, and shall require all of its Subcontractors to maintain, the following programs of insurance specified in this Contract. Such insurance shall be primary to and not contributing with any other insurance or self-insurance programs maintained by the County. Such coverage shall be provided and maintained at the Contractor's own expense.

**8.23.1 Evidence of Insurance:** Certificate(s) or other evidence of coverage satisfactory to the County shall be delivered to:

J. Tyler McCauley  
Auditor-Controller  
525 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, CA 90012

prior to commencing services under this Contract. Such certificates or other evidence shall:

- Specifically identify this Contract;
- Clearly evidence all coverages required in this Contract;
- Contain the express condition that the County is to be given written notice by mail at least thirty (30) days in advance of cancellation for all policies evidenced on the certificate of insurance;
- Include copies of the additional insured endorsement to the commercial general liability policy, adding the County of Los Angeles, its Special Districts, its officials, officers and employees as insureds for all activities arising from this Contract; and
- Identify any deductibles or self-insured retentions for the County's approval. The County retains the right to require the Contractor to reduce or eliminate such deductibles or self-insured retentions as they apply to the County, or, require the Contractor to provide a bond guaranteeing payment of all such retained losses and related costs, including, but not limited to, expenses or fees, or both, related to investigations, claims administrations, and legal defense. Such bond shall be executed by a corporate surety licensed to transact business in the State of California.

**8.23.2 Insurer Financial Ratings:** Insurance is to be provided by an insurance company acceptable to the County with an A.M. Best rating of not less than A:VII unless otherwise approved by the County.

**8.23.3 Failure to Maintain Coverage:** Failure by the Contractor to maintain the required insurance, or to provide evidence of insurance coverage acceptable to the County, shall

constitute a material breach of the Contract upon which the County may immediately terminate or suspend this Contract. The County, at its sole option, may obtain damages from the Contractor resulting from said breach. Alternatively, the County may purchase such required insurance coverage, and without further notice to the Contractor, the County may deduct from sums due to the Contractor any premium costs advanced by the County for such insurance.

**8.23.4 Notification of Incidents, Claims or Suits: Contractor shall report to the County:**

- Any accident or incident relating to services performed under this Contract which involves injury or property damage which may result in the filing of a claim or lawsuit against the Contractor and/or the County.
- Such report shall be made in writing within 24 hours of occurrence.
- Any third party claim or lawsuit filed against the Contractor arising from or related to services performed by the Contractor under this Contract.
- Any injury to a Contractor employee that occurs on County property. This report shall be submitted on a County "Non-employee Injury Report" to the County's Project Manager.
- Any loss, disappearance, destruction, misuse, or theft of any kind whatsoever of County property, monies or securities entrusted to the Contractor under the terms of this Contract.

**8.23.5 Compensation for County Costs:** In the event that the Contractor fails to comply with any of the indemnification or insurance requirements of this Contract, and such failure to



comply results in any costs to the County, the Contractor shall pay full compensation for all costs incurred by the County.

**8.23.6 Insurance Coverage Requirements for Subcontractors:**

The Contractor shall ensure any and all Subcontractors performing services under this Contract meet the insurance requirements of this Contract by either:

- The Contractor providing evidence of insurance covering the activities of Subcontractors, or
- The Contractor providing evidence submitted by Subcontractors evidencing that Subcontractors maintain the required insurance coverage. The County retains the right to obtain copies of evidence of Subcontractor insurance coverage at any time.

**8.24 INSURANCE COVERAGE REQUIREMENTS**

**8.24.1 General Liability** insurance written on ISO policy form CG 00 01 or its equivalent with limits of not less than the following:

General Aggregate:	\$2 million
Products/Completed Operations Aggregate:	\$1 million
Personal and Advertising Injury:	\$1 million
Each Occurrence:	\$1 million

**8.24.2 Automobile Liability** written on ISO policy form CA 00 01 or its equivalent with a limit of liability of not less than \$1 million for each accident. Such insurance shall include coverage for all "owned", "hired" and "non-owned" vehicles, or coverage for "any auto".

**8.24.3 Workers' Compensation and Employers' Liability** insurance providing workers' compensation benefits, as required by the Labor Code of the State of California or by any other state, and for which the Contractor is responsible. If the Contractor's employees will be engaged

in maritime employment, coverage shall provide workers' compensation benefits as required by the U.S. Longshore and Harbor Workers' Compensation Act, Jones Act or any other federal law for which the Contractor is responsible. In all cases, the above insurance also shall include Employers' Liability coverage with limits of not less than the following:

Each Accident:	\$1 million
Disease - policy limit:	\$1 million
Disease - each employee:	\$1 million

#### **8.24.4 Professional Liability**

Insurance covering liability arising from any error, omission, negligent or wrongful act of the Contractor, its officers or employees with limits of not less than \$1 million per occurrence and \$3 million aggregate. Such coverage shall be maintained for a period of not less than two years (2) commencing upon termination or cancellation of this Agreement.

#### **8.25 INTENTIONALLY OMITTED**

#### **8.26 INTENTIONALLY OMITTED**

#### **8.27 NONDISCRIMINATION AND AFFIRMATIVE ACTION**

8.27.1 The Contractor certifies and agrees that all persons employed by it, its affiliates, subsidiaries, or holding companies are and shall be treated equally without regard to or because of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations.

8.27.2 The Contractor shall certify to, and comply with, the provisions of *Exhibit D - Contractor's EEO Certification*.

- 8.27.3 The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, in compliance with all applicable Federal and State anti-discrimination laws and regulations. Such action shall include, but is not limited to: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- 8.27.4 The Contractor certifies and agrees that it will deal with its subcontractors, bidders, or vendors without regard to or because of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation.
- 8.27.5 The Contractor certifies and agrees that it, its affiliates, subsidiaries, or holding companies shall comply with all applicable Federal and State laws and regulations to the end that no person shall, on the grounds of race, color, religion, ancestry, national origin, sex, age, physical or mental disability, marital status, or political affiliation, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Contract or under any project, program, or activity supported by this Contract.
- 8.27.6 The Contractor shall allow County representatives access to the Contractor's employment records during regular business hours to verify compliance with the provisions of this Sub-paragraph 8.27 when so requested by the County.

8.27.7 If the County finds that any provisions of this Sub-paragraph 8.27 have been violated, such violation shall constitute a material breach of this Contract upon which the County may terminate or suspend this Contract. While the County reserves the right to determine independently that the anti-discrimination provisions of this Contract have been violated, in addition, a determination by the California Fair Employment Practices Commission or the Federal Equal Employment Opportunity Commission that the Contractor has violated Federal or State anti-discrimination laws or regulations shall constitute a finding by the County that the Contractor has violated the anti-discrimination provisions of this Contract.

8.27.8 The parties agree that in the event the Contractor violates any of the anti-discrimination provisions of this Contract, the County shall, at its sole option, be entitled to the sum of Five Hundred Dollars (\$500) for each such violation pursuant to California Civil Code Section 1671 as liquidated damages in lieu of terminating or suspending this Contract.

**8.28 NON EXCLUSIVITY**

Nothing herein is intended nor shall be construed as creating any exclusive arrangement with the Contractor. This Contract shall not restrict the Auditor-Controller from acquiring similar, equal or like goods and/or services from other entities or sources.

**8.29 NOTICE OF DELAYS**

Except as otherwise provided under this Contract, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Contract, that party shall, within one (1) business day, give notice thereof, including all relevant information with respect thereto, to the other party.

**8.30 NOTICE OF DISPUTES**

The Contractor shall bring to the attention of the County's Project Manager and/or County's Project Director any dispute between the County and the Contractor regarding the performance of services as stated in this Contract. If the County's Project Manager or County's Project Director is not able to resolve the dispute, the Auditor-Controller, or designee shall resolve it.

**8.31 NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME CREDIT**

The Contractor shall notify its employees, and shall require each Subcontractor to notify its employees, that they may be eligible for the Federal Earned Income Credit under the federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice No. 1015.

**8.32 NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW**

The Contractor shall notify and provide to its employees, and shall require each Subcontractor to notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. The fact sheet is set forth in *Exhibit I* of this Contract and is also available on the Internet at [www.babysafela.org](http://www.babysafela.org) for printing purposes.

**8.33 NOTICES**

All notices or demands required or permitted to be given or made under this Contract shall be in writing and shall be hand delivered with signed receipt or mailed by first-class registered or certified mail, postage prepaid, addressed to the parties as identified in *Exhibits E - County's Administration and F - Contractor's Administration*. Addresses may be changed by either party giving ten (10) days' prior written notice thereof to the other party. The Auditor-Controller shall

have the authority to issue all notices or demands required or permitted by the County under this Contract.

**8.34 PROHIBITION AGAINST INDUCEMENT OR PERSUASION**

Notwithstanding the above, the Contractor and the County agree that, during the term of this Contract and for a period of one year thereafter, neither party shall in any way intentionally induce or persuade any employee of one party to become an employee or agent of the other party. No bar exists against any hiring action initiated through a public announcement.

**8.35 PUBLIC RECORDS ACT**

8.35.1 Any documents submitted by the Contractor; all information obtained in connection with the County's right to audit and inspect the Contractor's documents, books, and accounting records pursuant to Sub-paragraph 8.37 - Record Retention and Inspection/Audit Settlement of this Contract; as well as those documents which were required to be submitted in response to the Request for Proposals (RFP) used in the solicitation process for this Contract, become the exclusive property of the County. All such documents become a matter of public record and shall be regarded as public records. Exceptions will be those elements in the California Government Code Section 6250 et seq. (Public Records Act) and which are marked "trade secret", "confidential", or "proprietary". The County shall not in any way be liable or responsible for the disclosure of any such records including, without limitation, those so marked, if disclosure is required by law, or by an order issued by a court of competent jurisdiction.

8.35.2 In the event the County is required to defend an action on a Public Records Act request for any of the aforementioned documents, information, books, records, and/or contents of

a proposal marked "trade secret", "confidential", or "proprietary", the Contractor agrees to defend and indemnify the County from all costs and expenses, including reasonable attorney's fees, in action or liability arising under the Public Records Act.

### **8.36 PUBLICITY**

8.36.1 The Contractor shall not disclose any details in connection with this Contract to any person or entity except as may be otherwise provided hereunder or required by law. However, in recognizing the Contractor's need to identify its services and related clients to sustain itself, the County shall not inhibit the Contractor from publishing its role under this Contract within the following conditions:

- The Contractor shall develop all publicity material in a professional manner; and
- During the term of this Contract, the Contractor shall not, and shall not authorize another to, publish or disseminate any commercial advertisements, press releases, feature articles, or other materials using the name of the County without the prior written consent of the County's Project Director. The County shall not unreasonably withhold written consent.

8.36.2 The Contractor may, without the prior written consent of County, indicate in its proposals and sales materials that it has been awarded this Contract with the County of Los Angeles, provided that the requirements of this Sub-paragraph 8.36 shall apply.

### **8.37 RECORD RETENTION AND INSPECTION/AUDIT SETTLEMENT**

The Contractor shall maintain accurate and complete financial records of its activities and operations relating to this Contract in accordance with generally accepted accounting principles. The

Contractor shall also maintain accurate and complete employment and other records relating to its performance of this Contract. The Contractor agrees that the County, or its authorized representatives, shall have access to and the right to examine, audit, excerpt, copy, or transcribe any pertinent transaction, activity, or record relating to this Contract. All such material, including, but not limited to, all financial records, bank statements, cancelled checks or other proof of payment, timecards, sign-in/sign-out sheets and other time and employment records, and proprietary data and information, shall be kept and maintained by the Contractor and shall be made available to the County during the term of this Contract and for a period of five (5) years thereafter unless the County's written permission is given to dispose of any such material prior to such time. All such material shall be maintained by the Contractor at a location in Los Angeles County, provided that if any such material is located outside Los Angeles County, then, at the County's option, the Contractor shall pay the County for travel, per diem, and other costs incurred by the County to examine, audit, excerpt, copy, or transcribe such material at such other location.

8.37.1 In the event that an audit of the Contractor is conducted specifically regarding this Contract by any Federal or State auditor, or by any auditor or accountant employed by the Contractor or otherwise, then the Contractor shall file a copy of such audit report with the County's Auditor-Controller within thirty (30) days of the Contractor's receipt thereof, unless otherwise provided by applicable Federal or State law or under this Contract. Subject to applicable law, the County shall make a reasonable effort to maintain the confidentiality of such audit report(s).

8.37.2 Failure on the part of the Contractor to comply with any of the provisions of this Sub-paragraph 8.37 shall constitute a



material breach of this Contract upon which the County may terminate or suspend this Contract.

8.37.3 If, at any time during the term of this Contract or within five (5) years after the expiration or termination of this Contract, representatives of the County conduct an audit of the Contractor regarding the work performed under this Contract, and if such audit finds that the County's dollar liability for any such work is less than payments made by the County to the Contractor, then the difference shall be either: a) repaid by the Contractor to the County by cash payment upon demand or b) at the sole option of the County's Auditor-Controller, deducted from any amounts due to the Contractor from the County, whether under this Contract or otherwise. If such audit finds that the County's dollar liability for such work is more than the payments made by the County to the Contractor, then the difference shall be paid to the Contractor by the County by cash payment, provided that in no event shall the County's maximum obligation for this Contract exceed the funds appropriated by the County for the purpose of this Contract.

8.37.4 Intentionally Omitted

**8.38 RECYCLED BOND PAPER**

Consistent with the Board of Supervisors' policy to reduce the amount of solid waste deposited at the County landfills, the Contractor agrees to use recycled-content paper to the maximum extent possible on this Contract.

**8.39 SUBCONTRACTING**

8.39.1 The requirements of this Contract may not be subcontracted by the Contractor **without the advance approval of the County**. Any attempt by the Contractor to subcontract

without the prior consent of the County may be deemed a material breach of this Contract.

8.39.2 If the Contractor desires to subcontract, the Contractor shall provide the following information promptly at the County's request:

- A description of the work to be performed by the Subcontractor;
- A draft copy of the proposed subcontract; and
- Other pertinent information and/or certifications requested by the County.

8.39.3 The Contractor shall indemnify and hold the County harmless with respect to the activities of each and every Subcontractor in the same manner and to the same degree as if such Subcontractor(s) were the Contractor employees.

8.39.4 The Contractor shall remain fully responsible for all performances required of it under this Contract, including those that the Contractor has determined to subcontract, notwithstanding the County's approval of the Contractor's proposed subcontract.

8.39.5 The County's consent to subcontract shall not waive the County's right to prior and continuing approval of any and all personnel, including Subcontractor employees, providing services under this Contract. The Contractor is responsible to notify its Subcontractors of this County right.

8.39.6 The County's Project Director is authorized to act for and on behalf of the County with respect to approval of any subcontract and Subcontractor employees.

8.39.7 The Contractor shall be solely liable and responsible for all payments or other compensation to all Subcontractors and their officers, employees, agents, and successors in interest

arising through services performed hereunder, notwithstanding the County's consent to subcontract.

8.39.8 The Contractor shall obtain certificates of insurance, which establish that the Subcontractor maintains all the programs of insurance required by the County from each approved Subcontractor. The Contractor shall ensure delivery of all such documents to:

J. Tyler McCauley  
Auditor-Controller  
525 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, CA 90012

before any Subcontractor employee may perform any work hereunder.

**8.40 TERMINATION FOR BREACH OF WARRANTY TO MAINTAIN COMPLIANCE WITH COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM**

Failure of the Contractor to maintain compliance with the requirements set forth in Sub-paragraph 8.14 - Contractor's Warranty of Adherence to County's Child Support Compliance Program, shall constitute default under this Contract. Without limiting the rights and remedies available to the County under any other provision of this Contract, failure of the Contractor to cure such default within ninety (90) calendar days of written notice shall be grounds upon which the County may terminate this Contract pursuant to Sub-paragraph 8.42 - Termination for Default and pursue debarment of the Contractor, pursuant to County Code Chapter 2.202.

**8.41 TERMINATION FOR CONVENIENCE**

8.41.1 This Contract may be terminated, in whole or in part, from time to time, when such action is deemed by the County, in

its sole discretion, to be in its best interest. Termination of work hereunder shall be effected by notice of termination to the Contractor specifying the extent to which performance of work is terminated and the date upon which such termination becomes effective. The date upon which such termination becomes effective shall be no less than ten (10) days after the notice is sent.

8.41.2 After receipt of a notice of termination and except as otherwise directed by the County, the Contractor shall:

- Stop work under this Contract on the date and to the extent specified in such notice, and
- Complete performance of such part of the work as shall not have been terminated by such notice.

8.41.3 All material including books, records, documents, or other evidence bearing on the costs and expenses of the Contractor under this Contract shall be maintained by the Contractor in accordance with Sub-paragraph 8.37, Record Retention & Inspection/Audit Settlement.

#### **8.42 TERMINATION FOR DEFAULT**

8.42.1 The County may, by written notice to the Contractor, terminate the whole or any part of this Contract, if, in the judgment of County's Project Director:

- Contractor has materially breached this Contract; or
- Contractor fails to timely provide and/or satisfactorily perform any task, deliverable, service, or other work required either under this Contract; or
- Contractor fails to demonstrate a high probability of timely fulfillment of performance requirements under this Contract, or of any obligations of this Contract and in either case, fails to demonstrate convincing progress toward a cure within five (5) working days (or such

longer period as the County may authorize in writing) after receipt of written notice from the County specifying such failure.

8.42.2 In the event that the County terminates this Contract in whole or in part as provided in Sub-paragraph 8.42.1, the County may procure, upon such terms and in such manner as the County may deem appropriate, goods and services similar to those so terminated. The Contractor shall be liable to the County for any and all excess costs incurred by the County, as determined by the County, for such similar goods and services. The Contractor shall continue the performance of this Contract to the extent not terminated under the provisions of this Sub-paragraph.

8.42.3 Except with respect to defaults of any Subcontractor, the Contractor shall not be liable for any such excess costs of the type identified in Sub-paragraph 8.42.2 if its failure to perform this Contract arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not limited to: acts of God or of the public enemy, acts of the County in either its sovereign or contractual capacity, acts of Federal or State governments in their sovereign capacities, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case, the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of a Subcontractor, and if such default arises out of causes beyond the control of both the Contractor and Subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any such

excess costs for failure to perform, unless the goods or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required performance schedule. As used in this Sub-paragraph 8.42.3, the terms "Subcontractor" and "Subcontractors" mean Subcontractor(s) at any tier.

8.42.4 If, after the County has given notice of termination under the provisions of this Sub-paragraph 8.42, it is determined by the County that the Contractor was not in default under the provisions of this Sub-paragraph 8.42, or that the default was excusable under the provisions of Sub-paragraph 8.42.3, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Sub-paragraph 8.41 - Termination for Convenience.

8.42.5 The rights and remedies of the County provided in this Sub-paragraph 8.42 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

#### **8.43 TERMINATION FOR IMPROPER CONSIDERATION**

8.43.1 The County may, by written notice to the Contractor, immediately terminate the right of the Contractor to proceed under this Contract if it is found that consideration, in any form, was offered or given by the Contractor, either directly or through an intermediary, to any County officer, employee, or agent with the intent of securing this Contract or securing favorable treatment with respect to the award, amendment, or extension of this Contract or the making of any determinations with respect to the Contractor's performance pursuant to this Contract. In the event of such termination,

the County shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of default by the Contractor.

8.43.2 The Contractor shall immediately report any attempt by a County officer or employee to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Auditor-Controller's Employee Fraud Hotline at (800) 544-6861.

8.43.3 Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

#### **8.44 TERMINATION FOR INSOLVENCY**

8.44.1 The County may terminate this Contract forthwith in the event of the occurrence of any of the following:

- Insolvency of the Contractor. The Contractor shall be deemed to be insolvent if it has ceased to pay its debts for at least sixty (60) days in the ordinary course of business or cannot pay its debts as they become due, whether or not a petition has been filed under the Federal Bankruptcy Code and whether or not the Contractor is insolvent within the meaning of the Federal Bankruptcy Code;
- The filing of a voluntary or involuntary petition regarding the Contractor under the Federal Bankruptcy Code;
- The appointment of a Receiver or Trustee for the Contractor; or
- The execution by the Contractor of a general assignment for the benefit of creditors.

8.44.2 The rights and remedies of the County provided in this Sub-paragraph 8.44 shall not be exclusive and are in addition to

any other rights and remedies provided by law or under this Contract.

**8.45 TERMINATION FOR NON-ADHERENCE OF COUNTY LOBBYIST ORDINANCE**

The Contractor, and each County Lobbyist or County Lobbying firm as defined in County Code Section 2.160.010 retained by the Contractor, shall fully comply with the County's Lobbyist Ordinance, County Code Chapter 2.160. Failure on the part of the Contractor or any County Lobbyist or County Lobbying firm retained by the Contractor to fully comply with the County's Lobbyist Ordinance shall constitute a material breach of this Contract, upon which the County may in its sole discretion, immediately terminate or suspend this Contract.

**8.46 TERMINATION FOR NON-APPROPRIATION OF FUNDS**

Notwithstanding any other provision of this Contract, the County shall not be obligated for the Contractor's performance hereunder or by any provision of this Contract during any of the County's future fiscal years unless and until the County's Board of Supervisors appropriates funds for this Contract in the County's Budget for each such future fiscal year. In the event that funds are not appropriated for this Contract, then this Contract shall terminate as of June 30 of the last fiscal year for which funds were appropriated. The County shall notify the Contractor in writing of any such non-allocation of funds at the earliest possible date.

**8.47 VALIDITY**

If any provision of this Contract or the application thereof to any person or circumstance is held invalid, the remainder of this Contract and the application of such provision to other persons or circumstances shall not be affected thereby.

**8.48 WAIVER**

No waiver by the County of any breach of any provision of this



Contract shall constitute a waiver of any other breach or of such provision. Failure of the County to enforce at any time, or from time to time, any provision of this Contract shall not be construed as a waiver thereof. The rights and remedies set forth in this Sub-paragraph 8.48 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

#### **8.49 WARRANTY AGAINST CONTINGENT FEES**

8.49.1 The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon any Contract or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business.

8.49.2 For breach of this warranty, the County shall have the right to terminate this Contract and, at its sole discretion, deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

### **9.0 UNIQUE TERMS AND CONDITIONS**

#### **9.1 INTENTIONALLY OMITTED**

#### **9.2 CONTRACTOR'S OBLIGATIONS AS A "BUSINESS ASSOCIATE" UNDER HEALTH INSURANCE PORTABILITY & ACCOUNTABILITY ACT OF 1996 (HIPAA)**

The County is subject to the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Under this Contract, the Contractor provides services to the County and the Contractor receives, has access to, and/or creates Protected Health Information as defined in *Exhibit N* in order to provide those services. The County and the Contractor therefore agree to the terms of *Exhibit N, Contractor's Obligations*

*As a "Business Associate" Under Health Insurance Portability & Accountability Act of 1996 (HIPAA).*

**9.3 LOCAL SMALL BUSINESS ENTERPRISE (SBE) PREFERENCE PROGRAM**

9.3.1 This Contract is subject to the provisions of the County's ordinance entitled Local Small Business Enterprise Preference Program, as codified in Chapter 2.204 of the Los Angeles County Code.

9.3.2 The Contractor shall not knowingly and with the intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a Local Small Business Enterprise.

9.3.3 The Contractor shall not willfully and knowingly make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a County official or employee for the purpose of influencing the certification or denial of certification of any entity as a Local Small Business Enterprise.

9.3.4 If the Contractor has obtained County certification as a Local Small Business Enterprise by reason of having furnished incorrect supporting information or by reason of having withheld information, and which knew, or should have known, the information furnished was incorrect or the information withheld was relevant to its request for certification, and which by reason of such certification has been awarded this contract to which it would not otherwise have been entitled, shall:

1. Pay to the County any difference between the contract amount and what the County's costs would have been if the contract had been properly awarded;

2. In addition to the amount described in subdivision (1), be assessed a penalty in an amount of not more than 10 percent of the amount of the contract; and
3. Be subject to the provisions of Chapter 2.202 of the Los Angeles County Code (Determinations of Contractor Non-responsibility and Contractor Debarment).

The above penalties shall also apply if the Contractor is no longer eligible for certification as a result in a change of their status and the Contractor failed to notify the State and the County's Office of Affirmative Action Compliance of this information.

#### **9.4 OWNERSHIP OF MATERIALS, SOFTWARE AND COPYRIGHT**

9.4.1 County shall be the sole owner of all right, title and interest, including copyright, in and to all software, plans, diagrams, facilities, and tools (hereafter "materials") which are originated or created through the Contractor's work pursuant to this Contract. The Contractor, for valuable consideration herein provided, shall execute all documents necessary to assign and transfer to, and vest in the County all of the Contractor's right, title and interest in and to such original materials, including any copyright, patent and trade secret rights which arise pursuant to the Contractor's work under this Contract.

9.4.2 During the term of this Contract and for five (5) years thereafter, the Contractor shall maintain and provide security for all of the Contractor's working papers prepared under this Contract. County shall have the right to inspect, copy and use at any time during and subsequent to the term of this Contract, any and all such working papers and all information contained therein.

9.4.3 Any and all materials, software and tools which are developed or were originally acquired by the Contractor outside the scope of this Contract, which the Contractor desires to use hereunder, and which the Contractor considers to be proprietary or confidential, must be specifically identified by the Contractor to the County's Project Manager as proprietary or confidential, and shall be plainly and prominently marked by the Contractor as "Propriety" or "Confidential" on each appropriate page of any document containing such material.

9.4.4 The County will use reasonable means to ensure that the Contractor's proprietary and/or confidential items are safeguarded and held in confidence. The County agrees not to reproduce, distribute or disclose to non-County entities any such proprietary and/or confidential items without the prior written consent of the Contractor.

9.4.5 Notwithstanding any other provision of this Contract, the County will not be obligated to the Contractor in any way under Sub-paragraph 9.4.4 for any of the Contractor's proprietary and/or confidential items which are not plainly and prominently marked with restrictive legends as required by Sub-paragraph 9.4.3 or for any disclosure which the County is required to make under any state or federal law or order of court.

9.4.6 All the rights and obligations of this Sub-paragraph 9.4 shall survive the expiration or termination of this Contract.

## **9.5 PATENT, COPYRIGHT & TRADE SECRET INDEMNIFICATION**

9.5.1 The Contractor shall indemnify, hold harmless and defend County from and against any and all liability, damages, costs, and expenses, including, but not limited to, defense costs and attorneys' fees, for or by reason of any actual or

alleged infringement of any third party's patent or copyright, or any actual or alleged unauthorized trade secret disclosure, arising from or related to the operation and utilization of the Contractor's work under this Contract. County shall inform the Contractor as soon as practicable of any claim or action alleging such infringement or unauthorized disclosure, and shall support the Contractor's defense and settlement thereof.

9.5.2 In the event any equipment, part thereof, or software product becomes the subject of any complaint, claim, or proceeding alleging infringement or unauthorized disclosure, such that County's continued use of such item is formally restrained, enjoined, or subjected to a risk of damages, the Contractor, at its sole expense, and providing that County's continued use of the system is not materially impeded, shall either:


- Procure for County all rights to continued use of the questioned equipment, part, or software product; or
- Replace the questioned equipment, part, or software product with a non-questioned item; or
- Modify the questioned equipment, part, or software so that it is free of claims.

9.5.3 The Contractor shall have no liability if the alleged infringement or unauthorized disclosure is based upon a use of the questioned product, either alone or in combination with other items not supplied by the Contractor, in a manner for which the questioned product was not designed nor intended.

## **9.6 Intentionally Omitted**

IN WITNESS WHEREOF, Contractor has executed this Contract, or caused it to be duly executed and the County of Los Angeles, by order of its Board of Supervisors has caused this Contract to be executed on its behalf by the Chair of said Board and attested by the Executive Officer-Clerk of the Board of Supervisors thereof, the day and year first above written.

CONTRACTOR: (Macias Gini & O'Connell LLP)

By   
Name  
Partner  
Title

COUNTY OF LOS ANGELES

By \_\_\_\_\_  
(Mayor/Chairman), Board of Supervisors

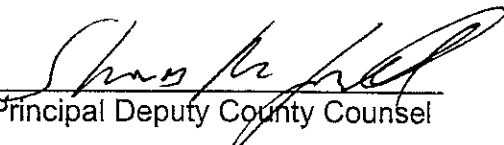
ATTEST:

SACHI HAMAI  
Executive Officer-Clerk  
of the Board of Supervisors

By \_\_\_\_\_

APPROVED AS TO FORM:

Raymond G. Fortner, Jr.  
County Counsel

By   
Principal Deputy County Counsel

# **EXHIBIT A**

## **STATEMENT OF WORK**

**EXHIBIT A**  
**STATEMENT OF WORK**  
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# **ANNUAL FINANCIAL AUDITS**

## **EXHIBIT A**

### **STATEMENT OF WORK (SOW)**

#### **1.0 GENERAL BACKGROUND AND INFORMATION**

##### General Information and Background

The COUNTY is an extremely large and complex governmental entity. The COUNTY'S population exceeds 10 million and is larger than 43 of the states in the U.S. The COUNTY'S 2006-2007 Budget exceeds \$21 billion and the number of employees exceeds 90,000.

As required under the COUNTY'S charter, COUNTY ordinances or by State and federal mandates, the COUNTY'S principal functions include the following major areas: general government, public protection, public ways and facilities, health and sanitation (including hospitals), public assistance, and recreation and cultural services. The centralized accounting system maintains records for over 1,800 individual funds. The supporting documentation are maintained at the 39 various County departments.

The COUNTY closes its budgetary records during the latter part of August. Numerous adjusting entries are required to prepare the financial statements in accordance with generally accepted accounting principles. In addition, certain major entities, such as the Community Development Commission, the Los Angeles County Employees Retirement Association, and the First 5 LA Commission, have independent accounting systems and their financial statements are audited by other auditors. These other audited statements must be incorporated into the COUNTY'S financial statements.

The COUNTY'S financial statements and related footnotes are normally completed during November and are generally prepared by COUNTY staff. The COUNTY has been awarded the Governmental Finance Officers Association's Certificate of Achievement for Excellence in Financial Reporting for the past 24 fiscal years.

The COUNTY maintains its centralized accounting records on the County-wide Accounting and Purchasing System (eCAPS). In addition, there are various other automated systems utilized to generate transactions and interface with eCAPS.

## **2.0 SCOPE AND OBJECTIVES**

All audits will be conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States.

### **2.1 INDEPENDENT AUDITOR'S REPORT**

The Independent Auditor's Report is to be prepared in accordance with generally accepted auditing standards and generally accepted governmental auditing standards and meet the requirements of OMB Circular A-133 (Single Audit Act of 1996, as amended). The report is to be addressed to the County of Los Angeles Board of Supervisors. One camera ready copy and a PDF file of the independent auditor's report on the basic financial statements shall be provided for inclusion in the COUNTY'S financial statements.

The Independent Auditor will perform an examination of the basic financial statements of the County of Los Angeles for each of the three fiscal years in the period ending June 30, 2009, in accordance with generally accepted auditing standards and generally accepted governmental accounting standards with the objectives of expressing an opinion on the financial statements.

The examination will include the blended component units which are required to be included in the COUNTY'S financial statements in accordance with Governmental Accounting Standards Board (GASB) requirements. A separate scope audit of each entity is not required. Certain entities have been audited by others in prior years. It is expected that these latter entities will continue to be audited by others during each of the three years.

The CONTRACTOR is also expected to assist the COUNTY as necessary to meet the requirements of the Government Finance Officers Association's Certificate of Achievement for Excellence in Financial Reporting Program.

### **2.2 SINGLE AUDIT**

The examination will comply with the requirements of Office of Management and Budget (OMB) Circular A-133 (Single Audit act of 1996, as amended), relating to the Federal assistance programs for which the COUNTY is the primary recipient. The Federal assistance grants of the Community Development Commission are audited by another firm and are specifically excluded from the single audit for Los Angeles County.

The CONTRACTOR will perform an examination of the Schedule of Federal Financial Assistance of the County of Los Angeles for each of the three fiscal years in the period ending June 30, 2009, in accordance with generally accepted auditing standards and generally accepted

governmental auditing standards with the objectives of expressing an opinion on the Schedule of Federal Financial Assistance.

The CONTRACTOR will coordinate and assist the COUNTY to complete the required Data Collection Form for Reporting on Audits of States, Local Governments, and Non-Profit Organizations. This form is required to be completed per OMB Circular A-133 and must be submitted electronically.

The CONTRACTOR will coordinate the planning and development of testing methods with the COUNTY'S cognizant agency, the California State Controller's office, to ensure the examination satisfies the requirements of OMB Circular A-133.

The CONTRACTOR is also required to furnish one hundred (100) copies and a PDF file of the single audit report including the Schedule of Federal Financial Assistance. The CONTRACTOR will coordinate specific format and content requirements for the single audit reports with the COUNTY'S cognizant agency, the California State Controller.

## **2.3 ASSISTANCE TO RESPOND TO STATE AND FEDERAL INQUIRIES**

The CONTRACTOR will assist the COUNTY in responding to inquiries from State and federal agencies on issues relating to the audit. In addition, to satisfy State and federal cost allocation requirements, the CONTRACTOR will make available to the COUNTY labor hour details from the firm's time records that indicate the number of actual hours for each COUNTY department audited in the examination of the Schedule of Federal Financial Assistance.

## **2.4 COUNTY'S GANN REPORT**

In conjunction with the audit, the CONTRACTOR will be required to perform certain agreed upon procedures to test the accuracy of the COUNTY'S GANN limit calculations and issue a special report for Article XIIIB Appropriations Limitation Verification for each of the three fiscal years in the period ending June 30, 2009.

Agreed-upon procedures to the Appropriations Limit Worksheet for the County of Los Angeles, California (County):

- A. The auditors will obtain the County's Appropriations Worksheet for the current year end and determine that the appropriations limit and annual adjustment factors were adopted by resolution of the Board of Supervisors. The auditors will also determine that the population and inflation options used by the County were selected by a recorded vote of the Board of Supervisors.

- B. For the current Appropriations Limit Worksheet, the auditors will add the previous year's Appropriation Limit to the total adjustments and agree the resulting amounts to the previous year's Adjusted Appropriations Limit. Additionally, the auditors will multiply the previous year's Adjusted Appropriations Limit by the adjustment factors and agree the resulting amounts to the current Adjusted Appropriations Limit.
- C. The auditors will agree the current year information presented in the Appropriations Limit Worksheet to the supporting worksheets designed and prepared by the County.
- D. The auditors will compare the prior year Appropriations Limit presented in the Appropriations Limit Worksheet to the prior year's Appropriations Limit adopted by the County's Board of Supervisors. The auditors will disclose any differences noted in the Notes to Appropriations Limit Worksheet.
- E. The auditors will agree the adjustment amounts described in the Notes to Appropriations Limit Worksheet to supporting documentation maintained by the County's Chief Administrative Office.

Ten (10) copies and a PDF file of the report shall be provided to the County.

## **2.5 LOCAL TRANSPORTATION FUND**

In conjunction with the audit, the CONTRACTOR will perform an examination of the County of Los Angeles, California Local Transportation Fund for each of the three fiscal years in the period ending June 30, 2009, in accordance with generally accepted auditing standards and generally accepted governmental auditing standards with the objectives of expressing an opinion on the financial statements and supplemental schedule.

## **2.6 MANAGEMENT LETTER**

A management letter shall be prepared for each of the three fiscal years in the period ending June 30, 2009 setting forth the following:

- Findings and recommendations for improvement resulting from the survey of systems of internal control conducted as part of the examination.
- Findings and recommendations for improvements in accounting systems where noted during the conduct of the examination.
- Findings of noncompliance with laws, rules, and regulations coming to the attention of the firm during the course of the examination.

- Any other material items coming to the attention of the firm during the conduct of the examination.

The management letter shall be addressed to the County of Los Angeles Board of Supervisors. Ten (10) copies and a PDF file of the letter shall be provided.

### **3.0 FIELDWORK DELIVERABLES**

- A. A practical work schedule identifying anticipated accomplishments for the first two-week period of the project will be due on the beginning date of the Contract.
- B. A detailed work schedule, including identifiable milestones, for the remainder of the audit will be due two weeks after the beginning date of the Contract.
- C. Two written progress reports, supplemented with oral briefing, will be submitted to the COUNTY Project Manager or his designee on October 1<sup>st</sup> and November 1<sup>st</sup> for each audit year. The report shall contain the following information:
  - 1. Overview of the reporting period
  - 2. Summary of project status as of reporting date
  - 3. Tasks, deliverables, services and other work scheduled for the reporting period which were completed
  - 4. Tasks, deliverables, services and other work scheduled for the reporting period which were not completed
  - 5. Tasks, deliverables, services and other work completed in the reporting period which were not scheduled
  - 6. Tasks, deliverables, services and other work to be completed in the next reporting period
  - 7. Issues to be resolved
  - 8. Issues resolved
  - 9. Any difficulties encountered by the CONTRACTOR that could jeopardize the completion of the Work Order or milestones or deliverables within the schedule
  - 10. Updated milestone chart
  - 11. Any other information which COUNTY may from time-to-time require
- D. The CONTRACTOR shall properly document their audit testwork in workpapers. Workpapers shall be made available to COUNTY representatives upon request.

The COUNTY Project Manager or his designee shall monitor the progress reports to ensure successful completion of the Contract within the schedule.

## **4.0 REPORT DELIVERABLES**

The following are the required report dates in connection with this Contract:

- Submission of Independent Auditor's Report on Financial Statements Nov 30, 2007, 2008, 2009
- Submission of Single Audit Reports Jan 15, 2008, 2009, 2010
- Submission of Special Report for Article XIII B Appropriations Limitation Verification Jan 15, 2008, 2009, 2010
- Submission of County of Los Angeles, California Local Transportation Fund Reports Dec 15, 2007, 2008, 2009
- Submission of Management Letter Jan 15, 2008, 2009, 2010

## **5.0 FRAUD**

**At any time during the project, if the CONTRACTOR suspects fraud, employee misconduct or any other significant finding, the CONTRACTOR shall immediately notify the COUNTY Contract Manager or his designee without contacting the auditee.**

## **PRICING SCHEDULE**

Total Fee – The following chart illustrates the total all-inclusive fee for audit services by Fiscal Year Ended June 30:

	2007 (2)	2008	2009	(option) 2010	(option) 2011	Total
Independent Auditor's Report	\$419,125	\$439,480	\$462,495	\$485,610	\$509,470	\$2,316,180
Single Audit	232,134	243,430	256,249	268,991	282,183	1,282,987
Medical Centers Test-work	314,643	329,904	347,418	364,736	382,839	1,739,540
Local Transportation Fund	9,819	10,288	10,833	11,378	11,934	54,252
GANN Report	2,374	2,482	2,622	2,751	2,882	13,111
Management Letter	9,165	9,620	10,109	10,616	11,144	50,654
<b>Total Maximum Fee (a not-to-exceed amount) (1)</b>	<b>\$987,260</b>	<b>\$1,035,204</b>	<b>\$1,089,726</b>	<b>\$1,144,082</b>	<b>\$1,200,452</b>	<b>\$5,456,724</b>

### **HOURLY RATES**

Partner	\$290
Technical Reviewer	\$275
Specialist	\$220
Manager	\$220
Senior	\$130
Staff	\$110

- (1) Total all-inclusive maximum amount.
- (2) Macias Gini & O'Connell agrees to provide an additional 300 hours for the 2007 audit year without exceeding the total maximum fee (a not-to-exceed amount).



# Los Angeles County BOARD OF SUPERVISORS POLICY MANUAL

Policy #:	Title:	Effective Date:
6.109	Security Incident Reporting	05/08/07

## PURPOSE

The intent of this policy is to ensure that County departments report information technology (IT) security incidents in a consistent manner to responsible County management to assist their decision and coordination process.

## POLICY

All information technology (IT) related security incidents (i.e., virus/worm attacks, actual or suspected loss or disclosure of personal and/or confidential information, etc.) must be reported to the applicable designated County offices in a timely manner to minimize the risk to the County, its employees and assets, and other persons/entities. The County department that receives a report of an incident must coordinate the information gathering and documenting process and collaborate with other affected departments to identify and implement a resolution or incident mitigation action (i.e., notification of unauthorized disclosure of personal and/or confidential information to the affected employee and/or other person/entity, etc.)

In all cases, IT related security incidents must be reported by the Chief Information Office (CIO) to the Board of Supervisors (Board) delineating the scope of the incident, impact, actions being taken and any action taken to prevent a further occurrence. Board notification must occur as soon as the incident is known. Subsequent updates to the Board may occur until the incident is closed as determined by the Chief Information Security Officer (CISO).

Each County department must coordinate with one or both of the designated County offices (CIO and the Auditor-Controller), as applicable, when an IT related security incident occurs. For purposes of this coordination, the CISO has the responsibility for the CIO. The County HIPAA Privacy Officer (HPO) and the Office of County Investigations (OCI) have respective responsibilities for the Auditor-Controller.

### Chief Information Security Officer (CISO)



All IT related security incidents that may result in the disruption of business continuity or actual or suspected loss or disclosure of personal and/or confidential information must be reported to the applicable Departmental Information Security Officer (DISO) who will report to the CISO. Examples of these incidents include:

- Virus or worm outbreaks that infect at least ten (10) IT devices (i.e, desktop and laptop computers, personal digital assistants (PDA, etc.)
- Malicious attacks on IT networks
- Web page defacements
- Actual or suspected loss or disclosure of personal and/or confidential information
- Loss of County supplied portable computing devices (i.e., laptops, PDAs removable storage devices, etc.)

#### **HIPAA Privacy Officer (HPO)**

All IT related security incidents that may involve patient protected health information (PHI) must be reported by the affected County departments to the HPO. These incidents may be reported using an on-line form found at [www.lacountyfraud.org](http://www.lacountyfraud.org). Examples of these incidents include:

- Compromise of patient information
- Actual or suspected loss or disclosure of patient information

#### **Office of County Investigations (OCI)**

All IT related security incidents that may involve non-compliance with any Acceptable Usage Agreement (Refer to Board of Supervisors Policy No. 6.101, Use of County Information Technology Resources) or the actual or suspected loss or disclosure of personal and/or confidential information must be reported to OCI. These incidents can be reported using an on-line form found at [www.lacountyfraud.org](http://www.lacountyfraud.org). Examples of these incidents include:

- System breaches from internal or external sources
- Lost or stolen computers and data
- Inappropriate non-work related data which may include pornography, music, videos
- Actual or suspected loss or disclosure of personal and/or confidential information

**Chief Information Office (CIO)**

All IT related security incidents that affect multiple departments, create significant loss of productivity or result in the actual or suspected loss or disclosure of personal and/or confidential information shall be coordinated with the CIO/CISO. As soon as the pertinent facts are known, the incident will be reported by the CIO to the Board of Supervisors. The CISO shall be responsible for determining the facts related to the incident and updating the CIO and other affected persons/entities on a regular basis until the issue(s) are resolved as determined by the CIO and action(s) taken to prevent any further occurrence. A final report shall be developed by the CIO that describes the incident, cost of remediation and loss of productivity (where applicable), impact due to the actual or suspected loss or disclosure of personal and/or confidential information, and final actions taken to mitigate and prevent future occurrences of similar events.

Actual or suspected loss or disclosure of personal and/or confidential information must result in a notification to the affected persons/entities via a formal letter from the applicable County department describing types of sensitive/confidential information lost and recommended actions to be taken by the persons/entities to mitigate the potential misuse of their information.

**Definition Reference**

As used in this policy, the terms "personal information" and "confidential information" shall have the same meanings as set forth in Board of Supervisors Policy No. 3.040 – General Records Retention and Protection of Records Containing Personal and Confidential Information.

**Compliance**

Employees who violate this policy may be subject to appropriate disciplinary action up to and including discharge as well as civil and criminal penalties. Non-employees including contractors may be subject to termination of contractual agreements, denial of access and/or penalties both criminal and civil.

**Policy Exceptions**

There are no exceptions to this policy.



# Los Angeles County BOARD OF SUPERVISORS POLICY MANUAL

Policy #:	Title:	Effective Date:
6.110	Protection of Information on Portable Computing Devices	05/08/07

## PURPOSE

To establish a policy regarding the protection of personal and/or confidential information used or maintained by the County that resides on any portable computing devices, whether or not the devices are owned or provided by the County.

## POLICY

This policy is applicable to all County departments, employees, contractors, subcontractors, volunteers and other governmental and private agency staff who use portable computing devices in support of County business.

### Definition Reference

As used in this policy, the terms "personal information" and "confidential information" shall have the same meanings as set forth in Board of Supervisors Policy No. 3.040 – General Records Retention and Protection of Records Containing Personal and Confidential Information.

### Placing Personal and/or Confidential Information On Portable Computing Devices

The County prohibits the unnecessary placement (download or input) of personal and/or confidential information on portable computing devices! However, users who in the course of County business must place personal and/or confidential information on portable computing devices must be made aware of the risks involved and impact to the affected person/entities in the event of actual or suspected loss or disclosure of personal and/or confidential information. If personal and/or confidential information is placed on a portable computing device, every effort must be taken, including, without limitation, physical controls, to protect the information from unauthorized access and, without exception, the information must be encrypted. Additionally, a written authorization signed by a designated member of departmental management must provide written approval for the particular personal and/or confidential information to be placed on a portable computing device. The recipient (person using the portable

computing device) must also sign the authorization indicating acceptance of the information and acknowledge his/her understanding of his/her responsibility to protect the information. The authorization must be reviewed and renewed, at a minimum, annually. In the event the portable computing device is lost or stolen, the department must be able to recreate the personal and/or confidential information with 100 percent accuracy and must be able to provide notification to the affected persons/entities.

### **Full Encryption of All Information on all Portable Computing Devices**

Security measures must be employed by all County departments to safeguard all personal and/or confidential information on all portable computing devices. All County-owned or provided portable computers (e.g., laptops and tablet computers) must at all times have automatic full disk encryption that does not require user intervention nor allow user choice to implement. If personal and/or confidential information is placed on any portable computing devices, all such information must be encrypted while on those portable computing devices.

Portable computing devices include, without limitation, the following:

- Portable computers, such as laptops and tablet computers
- Portable devices, such as personal digital assistants (PDA), digital cameras, portable phones, and pagers
- Portable storage media, such as diskettes, tapes, CDs, zip disks, DVDs, flash memory/drives, and USB drives

If personal and/or confidential information is stored on a portable computing device, it is the department's responsibility to ensure that the portable computing device supports department approved data encryption software and that all information is encrypted that resides on this vehicle.

### **Personal and/or Confidential Information**

When it is determined that personal and/or confidential information must be placed on a portable computing device, every effort should be taken to minimize the amount of information required. Additionally, if possible, information should be abbreviated to limit exposure (e.g., last 4 digits of the social security number).

### **Actions Required In the Event of Actual or Suspected Loss or Disclosure**

Any actual or suspected loss or disclosure of personal and/or confidential information must be reported under Board of Supervisors Policy 6.109, Security Incident Reporting. In all cases, every attempt must be made to assess the impact of storing, and to mitigate the risk to, personal and/or confidential information on all portable computing

devices.

### **Compliance**

Employees who violate this policy may be subject to appropriate disciplinary action up to and including discharge as well as civil and criminal penalties. Non-employees including contractors may be subject to termination of contractual agreements, denial of access and/or penalties both criminal and civil.

### **Policy Exceptions**

There are no exceptions to this policy.

**CONTRACTOR'S EEO CERTIFICATION**Macias Gini & O'Connell LLP

Contractor Name

515 South Figueroa Street, Suite 325, Los Angeles, CA 90071

Address

68-0300457

Internal Revenue Service Employer Identification Number

**GENERAL CERTIFICATION**

In accordance with Section 4.32.010 of the Code of the County of Los Angeles, the contractor, supplier, or vendor certifies and agrees that all persons employed by such firm, its affiliates, subsidiaries, or holding companies are and will be treated equally by the firm without regard to or because of race, religion, ancestry, national origin, or sex and in compliance with all anti-discrimination laws of the United States of America and the State of California.

**CONTRACTOR'S SPECIFIC CERTIFICATIONS**

- |  |   |                             |
|--|---|-----------------------------|
| 1. The Contractor has a written policy statement prohibiting discrimination in all phases of employment.   | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| 2. The Contractor periodically conducts a self analysis or utilization analysis of its work force.   | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| 3. The Contractor has a system for determining if its employment practices are discriminatory against protected groups.  | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| 4. Where problem areas are identified in employment practices, the Contractor has a system for taking reasonable corrective action, to include establishment of goals or timetables. | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |

James V. Godsey, Partner

Authorized Official's Printed Name and Title



Authorized Official's Signature

June 6, 2007

Date

**COUNTY'S ADMINISTRATION**

CONTRACT NO. \_\_\_\_\_

**COUNTY CONTRACT ADMINISTRATOR:**

Name: J. TYLER McCAULEY  
Title: AUDITOR-CONTROLLER  
Address: 500 WEST TEMPLE STREET, ROOM 525  
LOS ANGELES, CA 90012  
Telephone: (213)974-8301  
Facsimile: (213)626-5427  
E-Mail Address: tmccauley@auditor.lacounty.gov

**COUNTY PROJECT MANAGER:**

Name: CONNIE YEE  
Title: DIVISION CHIEF  
Address: 500 WEST TEMPLE STREET, ROOM 603  
LOS ANGELES, CA 90012  
Telephone: (213)974-8321  
Facsimile: (213)617-8106  
E-Mail Address: cyee@auditor.lacounty.gov

**COUNTY CONTRACT PROJECT MONITOR:**

Name: CONNIE YEE  
Title: DIVISION CHIEF  
Address: 500 WEST TEMPLE STREET, ROOM 603  
LOS ANGELES, CA 90012  
Telephone: (213)974-8321  
Facsimile: (213)617-8106  
E-Mail Address: cyee@auditor.lacounty.gov

**CONTRACTOR'S ADMINISTRATION****CONTRACTOR'S NAME:** Macias Gini & O'Connell LLP**CONTRACT NO:** \_\_\_\_\_**CONTRACTOR'S PROJECT MANAGER:**

**Name:** David Livingston  
**Title:** Senior Manager  
**Address:** 515 South Figueroa Street, Suite 325  
Los Angeles, CA 90071  
**Telephone:** 213-286-6427  
**Facsimile:** 213-286-6426  
**E-Mail Address:** dlivingston@mgocpa.com

**CONTRACTOR'S AUTHORIZED OFFICIAL(S)**

**Name:** James V. Godsey  
**Title:** Partner  
**Address:** 515 South Figueroa Street, Suite 325  
Los Angeles, CA 90071  
**Telephone:** 213-286-6401  
**Facsimile:** 213-286-6426  
**E-Mail Address:** jgodsey@mgocpa.com

**Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
\_\_\_\_\_  
**Telephone:** \_\_\_\_\_  
**Facsimile:** \_\_\_\_\_  
**E-Mail Address:** \_\_\_\_\_

**Notices to Contractor shall be sent to the following:**

**Name:** James V. Godsey  
**Title:** Partner  
**Address:** 515 South Figueroa Street, Suite 325  
Los Angeles, CA 90071  
**Telephone:** 213-286-6401  
**Facsimile:** 213-286-6426  
**E-Mail Address:** jgodsey@mgocpa.com



**CONTRACTOR ACKNOWLEDGEMENT AND CONFIDENTIALITY AGREEMENT**

(Note: This certification is to be executed and returned to County with Contractor's executed Contract. Work cannot begin on the Contract until County receives this executed document.)

CONTRACTOR NAME Macias Gini & O'Connell LLP Contract No. \_\_\_\_\_

**GENERAL INFORMATION:**

The Contractor referenced above has entered into a contract with the County of Los Angeles to provide certain services to the County. The County requires the Corporation to sign this Contractor Acknowledgement and Confidentiality Agreement.

**CONTRACTOR ACKNOWLEDGEMENT:**

Contractor understands and agrees that the Contractor employees, consultants, Outsourced Vendors and independent contractors (Contractor's Staff) that will provide services in the above referenced agreement are Contractor's sole responsibility. Contractor understands and agrees that Contractor's Staff must rely exclusively upon Contractor for payment of salary and any and all other benefits payable by virtue of Contractor's Staff's performance of work under the above-referenced contract.

Contractor understands and agrees that Contractor's Staff are not employees of the County of Los Angeles for any purpose whatsoever and that Contractor's Staff do not have and will not acquire any rights or benefits of any kind from the County of Los Angeles by virtue of my performance of work under the above-referenced contract. Contractor understands and agrees that Contractor's Staff will not acquire any rights or benefits from the County of Los Angeles pursuant to any agreement between any person or entity and the County of Los Angeles.

**CONFIDENTIALITY AGREEMENT:**

Contractor and Contractor's Staff may be involved with work pertaining to services provided by the County of Los Angeles and, if so, Contractor and Contractor's Staff may have access to confidential data and information pertaining to persons and/or entities receiving services from the County. In addition, Contractor and Contractor's Staff may also have access to proprietary information supplied by other vendors doing business with the County of Los Angeles. The County has a legal obligation to protect all such confidential data and information in its possession, especially data and information concerning health, criminal, and welfare recipient records. Contractor and Contractor's Staff understand that if they are involved in County work, the County must ensure that Contractor and Contractor's Staff, will protect the confidentiality of such data and information. Consequently, Contractor must sign this Confidentiality Agreement as a condition of work to be provided by Contractor's Staff for the County.

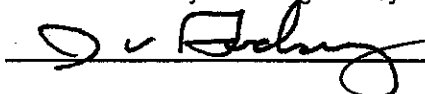
Contractor and Contractor's Staff hereby agrees that they will not divulge to any unauthorized person any data or information obtained while performing work pursuant to the above-referenced contract between Contractor and the County of Los Angeles. Contractor and Contractor's Staff agree to forward all requests for the release of any data or information received to County's Project Manager.

Contractor and Contractor's Staff agree to keep confidential all health, criminal, and welfare recipient records and all data and information pertaining to persons and/or entities receiving services from the County, design concepts, algorithms, programs, formats, documentation, Contractor proprietary information and all other original materials produced, created, or provided to Contractor and Contractor's Staff under the above-referenced contract. Contractor and Contractor's Staff agree to protect these confidential materials against disclosure to other than Contractor or County employees who have a need to know the information. Contractor and Contractor's Staff agree that if proprietary information supplied by other County vendors is provided to me during this employment, Contractor and Contractor's Staff shall keep such information confidential.

Contractor and Contractor's Staff agree to report any and all violations of this agreement by Contractor and Contractor's Staff and/or by any other person of whom Contractor and Contractor's Staff become aware.

Contractor and Contractor's Staff acknowledge that violation of this agreement may subject Contractor and Contractor's Staff to civil and/or criminal action and that the County of Los Angeles may seek all possible legal redress.

SIGNATURE: \_\_\_\_\_

DATE: 06 / 06 / 07PRINTED NAME: James V. GodseyPOSITION: Partner

Title 2 ADMINISTRATION  
Chapter 2.203.010 through 2.203.090  
CONTRACTOR EMPLOYEE JURY SERVICE

**2.203.010 Findings.**

The board of supervisors makes the following findings. The county of Los Angeles allows its permanent, full-time employees unlimited jury service at their regular pay. Unfortunately, many businesses do not offer or are reducing or even eliminating compensation to employees who serve on juries. This creates a potential financial hardship for employees who do not receive their pay when called to jury service, and those employees often seek to be excused from having to serve. Although changes in the court rules make it more difficult to excuse a potential juror on grounds of financial hardship, potential jurors continue to be excused on this basis, especially from longer trials. This reduces the number of potential jurors and increases the burden on those employers, such as the county of Los Angeles, who pay their permanent, full-time employees while on juror duty. For these reasons, the county of Los Angeles has determined that it is appropriate to require that the businesses with which the county contracts possess reasonable jury service policies. (Ord. 2002-0015 § 1 (part), 2002)

**2.203.020 Definitions.**

The following definitions shall be applicable to this chapter:

- A. "Contractor" means a person, partnership, corporation or other entity which has a contract with the county or a subcontract with a county contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more such contracts or subcontracts.
- B. "Employee" means any California resident who is a full-time employee of a contractor under the laws of California.
- C. "Contract" means any agreement to provide goods to, or perform services for or on behalf of, the county but does not include:
  - 1. A contract where the board finds that special circumstances exist that justify a waiver of the requirements of this chapter; or
  - 2. A contract where federal or state law or a condition of a federal or state program mandates the use of a particular contractor; or
  - 3. A purchase made through a state or federal contract; or
  - 4. A monopoly purchase that is exclusive and proprietary to a specific manufacturer, distributor, or reseller, and must match and inter-member with existing supplies, equipment or systems maintained by the county pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section P-3700 or a successor provision; or
  - 5. A revolving fund (petty cash) purchase pursuant to the Los Angeles County Fiscal Manual, Section 4.4.0 or a successor provision; or
  - 6. A purchase card purchase pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section P-2810 or a successor provision; or
  - 7. A non-agreement purchase with a value of less than \$5,000 pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section A-0300 or a successor provision; or
  - 8. A bona fide emergency purchase pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, Section PP-1100 or a successor provision.

Title 2 ADMINISTRATION  
Chapter 2.203.010 through 2.203.090  
CONTRACTOR EMPLOYEE JURY SERVICE

Page 2 of 3

- D. "Full time" means 40 hours or more worked per week, or a lesser number of hours if:
1. The lesser number is a recognized industry standard as determined by the chief administrative officer, or
  2. The contractor has a long-standing practice that defines the lesser number of hours as full time.
- E. "County" means the county of Los Angeles or any public entities for which the board of supervisors is the governing body. (Ord. 2002-0040 § 1, 2002: Ord. 2002-0015 § 1 (part), 2002)

**2.203.030 Applicability.**

This chapter shall apply to contractors who enter into contracts that commence after July 11, 2002. This chapter shall also apply to contractors with existing contracts which are extended into option years that commence after July 11, 2002. Contracts that commence after May 28, 2002, but before July 11, 2002, shall be subject to the provisions of this chapter only if the solicitations for such contracts stated that the chapter would be applicable. (Ord. 2002-0040 § 2, 2002: Ord. 2002-0015 § 1 (part), 2002)

**2.203.040 Contractor Jury Service Policy.**

A contractor shall have and adhere to a written policy that provides that its employees shall receive from the contractor, on an annual basis, no less than five days of regular pay for actual jury service. The policy may provide that employees deposit any fees received for such jury service with the contractor or that the contractor deduct from the employees' regular pay the fees received for jury service. (Ord. 2002-0015 § 1 (part), 2002)

**2.203.050 Other Provisions.**

- A. **Administration.** The chief administrative officer shall be responsible for the administration of this chapter. The chief administrative officer may, with the advice of county counsel, issue interpretations of the provisions of this chapter and shall issue written instructions on the implementation and ongoing administration of this chapter. Such instructions may provide for the delegation of functions to other county departments.
- B. **Compliance Certification.** At the time of seeking a contract, a contractor shall certify to the county that it has and adheres to a policy consistent with this chapter or will have and adhere to such a policy prior to award of the contract. (Ord. 2002-0015 § 1 (part), 2002)

**2.203.060 Enforcement and Remedies.**

For a contractor's violation of any provision of this chapter, the county department head responsible for administering the contract may do one or more of the following:

1. Recommend to the board of supervisors the termination of the contract; and/or,
2. Pursuant to chapter 2.202, seek the debarment of the contractor. (Ord. 2002-0015 § 1 (part), 2002)

Title 2 ADMINISTRATION  
Chapter 2.203.010 through 2.203.090  
CONTRACTOR EMPLOYEE JURY SERVICE

**2.203.070. Exceptions.**

- A. Other Laws. This chapter shall not be interpreted or applied to any contractor or to any employee in a manner inconsistent with the laws of the United States or California.
- B. Collective Bargaining Agreements. This chapter shall be superseded by a collective bargaining agreement that expressly so provides.
- C. Small Business. This chapter shall not be applied to any contractor that meets all of the following:
  - 1. Has ten or fewer employees during the contract period; and,
  - 2. Has annual gross revenues in the preceding twelve months which, if added to the annual amount of the contract awarded, are less than \$500,000; and,
  - 3. Is not an affiliate or subsidiary of a business dominant in its field of operation.

"Dominant in its field of operation" means having more than ten employees and annual gross revenues in the preceding twelve months which, if added to the annual amount of the contract awarded, exceed \$500,000.

"Affiliate or subsidiary of a business dominant in its field of operation" means a business which is at least 20 percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in that field of operation. (Ord. 2002-0015 § 1 (part), 2002)

**2.203.090. Severability.**

If any provision of this chapter is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. (Ord. 2002-0015 § 1 (part), 2002)

## **SAFELY SURRENDERED BABY LAW**

Posters and Fact Sheets are available in English and Spanish for printing purposes at the following website:

[www.babysafela.org](http://www.babysafela.org)

# **No shame. No blame. No names.**

**Newborns can be safely given up  
at any Los Angeles County  
hospital emergency room or fire station.**



**In Los Angeles County:  
1-877-BABY SAFE  
1-877-222-9723  
[www.babysafela.org](http://www.babysafela.org)**



**State of California  
Gray Davis, Governor**

**Health and Human Services Agency  
Grantland Johnson, Secretary**

**Department of Social Services  
Rita Saenz, Director**



**Los Angeles County Board of Supervisors**

**Gloria Molina, Supervisor, First District**

**Yvonne Brathwaite Burke, Supervisor, Second District**

**Zev Yaroslavsky, Supervisor, Third District**

**Don Knabe, Supervisor, Fourth District**

**Michael D. Antonovich, Supervisor, Fifth District**

**This initiative is also supported by First 5 LA and INFO LINE of Los Angeles.**

**What is the Safely Surrendered Baby Law?**

California's Safely Surrendered Baby Law allows parents to give up their baby confidentially. As long as the baby has not been abused or neglected, parents may give up their newborn without fear of arrest or prosecution.

**How does it work?**

A distressed parent who is unable or unwilling to care for a baby can legally, confidentially and safely give up a baby within three days of birth. The baby must be handed to an employee at a Los Angeles County emergency room or fire station. As long as the child shows no signs of abuse or neglect, no name or other information is required. In case the parent changes his or her mind at a later date and wants the baby back, workers will use bracelets to help connect them to each other. One bracelet will be placed on the baby, and a matching bracelet will be given to the parent.

**What if a parent wants the baby back?**

Parents who change their minds can begin the process of reclaiming their newborns within 14 days. These parents should call the Los Angeles County Department of Children and Family Services at 1-800-540-4000.

**Can only a parent bring in the baby?**

In most cases, a parent will bring in the baby. The law allows other people to bring in the baby if they have legal custody.

**Does the parent have to call before bringing in the baby?**

No. A parent can bring in a baby anytime, 24 hours a day, 7 days a week so long as the parent gives the baby to someone who works at the hospital or fire station.

**Does a parent have to tell anything to the people taking the baby?**

No. However, hospital personnel will ask the parent to fill out a questionnaire designed to gather important medical history information, which is very useful in caring for the child. Although encouraged, filling out the questionnaire is not required.

**What happens to the baby?**

The baby will be examined and given medical treatment, if needed. Then the baby will be placed in a pre-adoptive home.

**What happens to the parent?**

Once the parent(s) has safely turned over the baby, they are free to go.

**Why is California doing this?**

The purpose of the Safely Surrendered Baby Law is to protect babies from being abandoned by their parents and potentially being hurt or killed. You may have heard tragic stories of babies left in dumpsters or public bathrooms. The parents who committed these acts may have been under severe emotional distress. The mothers may have hidden their pregnancies, fearful of what would happen if their families found out. Because they were afraid and had nowhere to turn for help, they abandoned their infants. Abandoning a baby puts the child in extreme danger. It is also illegal. Too often, it results in the baby's death. Because of the Safely Surrendered Baby Law, this tragedy doesn't ever have to happen in California again.

**A baby's story**

At 8:30 a.m. on Thursday, July 25, 2002, a healthy newborn baby was brought to St. Bernardine Medical Center in San Bernardino under the provisions of the California Safely Surrendered Baby Law. As the law states, the baby's mother did not have to identify herself. When the baby was brought to the emergency room, he was examined by a pediatrician, who determined that the baby was healthy and doing fine. He was placed with a loving family while the adoption process was started.

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**Every baby deserves a chance for a healthy life. If someone you know is considering abandoning a newborn, let her know there are other options.**

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*It is best that women seek help to receive proper medical care and counseling while they are pregnant. But at the same time, we want to assure parents who choose not to keep their baby that they will not go to jail if they deliver their babies to safe hands in any Los Angeles County hospital ER or fire station.*

# **Sin pena. Sin culpa. Sin peligro.**

**Los recién nacidos pueden ser entregados  
en forma segura en la sala de emergencia de  
cualquier hospital o en un cuartel de bomberos  
del Condado de Los Angeles.**



**En el Condado de Los Angeles:**

**1-877-BABY SAFE**

**1-877-222-9723**

**[www.babysafela.org](http://www.babysafela.org)**



**Estado de California  
Gray Davis, Gobernador**

**Agencia de Salud y Servicios Humanos  
(Health and Human Services Agency)  
Grantland Johnson, Secretario**

**Departamento de Servicios Sociales  
(Department of Social Services)  
Rita Saenz, Directora**



**Consejo de Supervisores del Condado de Los Angeles**

**Gloria Molina, Supervisora, Primer Distrito**

**Yvonne Brathwaite Burke, Supervisora, Segundo Distrito**

**Zev Yaroslavsky, Supervisor, Tercer Distrito**

**Don Knabe, Supervisor, Cuarto Distrito**

**Michael D. Antonovich, Supervisor, Quinto Distrito**

**Esta iniciativa también está apoyada por First 5 LA y INFO LINE de Los Angeles.**



**¿Qué es la Ley de Entrega de Bebés Sin Peligro?**

La Ley de Entrega de Bebés Sin Peligro de California permite a los padres entregar a su recién nacido confidencialmente. Siempre que el bebé no haya sufrido abuso ni negligencia, padres pueden entregar a su recién nacido sin temor a ser arrestados o procesados.

**¿Cómo funciona?**

El padre/madre con dificultades que no pueda o no quiera cuidar de su recién nacido puede entregarlo en forma legal, confidencial y segura, dentro de los tres días del nacimiento. El bebé debe ser entregado a un empleado de una sala de emergencias o de un cuartel de bomberos del Condado de Los Angeles. Siempre que el bebé no presente signos de abuso o negligencia, no será necesario suministrar nombres ni información alguna. Si el padre/madre cambia de opinión posteriormente y desea recuperar a su bebé, los trabajadores utilizarán brazaletes para poder vincularlos. El bebé llevará un brazalete y el padre/madre recibirá un brazalete igual.

**¿Qué pasa si el padre/madre desea recuperar a su bebé?**

Los padres que cambien de opinión pueden empezar el proceso de redamar a su recién nacido dentro de los 14 días. Estos padres deberán llamar al Departamento de Servicios para Niños y Familias (Department of Children and Family Services) del Condado de Los Angeles, al 1-800-540-4000.

**¿Sólo los padres podrán llevar al recién nacido?**

En la mayoría de los casos, los padres son los que llevan al bebé. La ley permite que otras personas lleven al bebé si tienen la custodia legal del menor.

**¿Los padres deben llamar antes de llevar al bebé?**

No. El padre/madre puede llevar a su bebé en cualquier momento, las 24 horas del día, los 7 días de la semana, mientras que entregue a su bebé a un empleado del hospital o de un cuartel de bomberos.

**¿Es necesario que el padre/madre diga algo a las personas que reciben al bebé?**

No. Sin embargo, el personal del hospital le pedirá que llene un cuestionario con la finalidad de recabar antecedentes médicos importantes, que resultan de gran utilidad para los cuidados que recibirá el bebé. Es recomendado llenar este cuestionario, pero no es obligatorio hacerlo.

**¿Qué ocurrirá con el bebé?**

El bebé será examinado y, de ser necesario, recibirá tratamiento médico. Luego el bebé se entregará a un hogar preadoptivo.

**¿Qué pasará con el padre/madre?**

Una vez que los padres hayan entregado a su bebé en forma segura, serán libres de irse.

**¿Por qué California hace esto?**

La finalidad de la Ley de Entrega de Bebés Sin Peligro es proteger a los bebés del abandono por parte de sus padres y de la posibilidad de que mueran o sufran daños. Usted probablemente haya escuchado historias trágicas sobre bebés abandonados en basureros o en baños públicos. Es posible que los padres que cometieron estos actos hayan estado atravesando dificultades emocionales graves. Las madres pueden haber ocultado su embarazo, por temor a lo que pasaría si sus familias se enteraran. Abandonaron a sus recién nacidos porque tenían miedo y no tenían adonde recurrir para obtener ayuda. El abandono de un recién nacido lo pone en una situación de peligro extremo. Además es ilegal. Muy a menudo el abandono provoca la muerte del bebé. Ahora, gracias a la Ley de Entrega de Bebés Sin Peligro, esta tragedia ya no debe suceder nunca más en California.

**Historia de un bebé**

A las 8:30 a.m. del jueves 25 de julio de 2002, se entregó un bebé recién nacido saludable en el St. Bernardine Medical Center en San Bernardino, en virtud de las disposiciones de la Ley de Entrega de Bebés Sin Peligro. Como lo establece la ley, la madre del bebé no se tuvo que identificar. Cuando el bebé llegó a la sala de emergencias, un pediatra lo revisó y determinó que el bebé estaba saludable y no tenía problemas. El bebé fue ubicado con una buena familia, mientras se iniciaban los trámites de adopción.

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**Cada recién nacido merece una  
oportunidad de tener una vida saludable.  
Si alguien que usted conoce está pensando  
en abandonar a un recién nacido, infórmele  
qué otras opciones tiene.**

---

*Es mejor que las mujeres busquen ayuda para recibir atención médica y asesoramiento adecuado durante el embarazo. Pero al mismo tiempo, queremos asegurarnos a los padres que optan por no quedarse con su bebé que no irán a la cárcel si dejan a sus bebés en buenas manos en cualquier sala de emergencia de un hospital o en un cuartel de bomberos del Condado de Los Angeles.*

**AGREEMENT  
CONTRACTOR'S OBLIGATIONS AS A "BUSINESS ASSOCIATE"  
UNDER THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY  
ACT OF 1996 (HIPAA)**

Under this Agreement, Contractor ("Business Associate") provides services ("Services") to County ("Covered Entity") and Business Associate receives, has access to, or creates Protected Health Information in order to provide those Services. Covered Entity is subject to the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and regulations promulgated thereunder, including the Standards for Privacy of Individually Identifiable Health Information ("the Privacy Regulations") and the Health Insurance Reform: Security Standards ("the Security Regulations") at 45 Code of Federal Regulations Parts 160 and 164 ("together, the "Privacy and Security Regulations").

The Privacy and Security Regulations require Covered Entity to enter into a contract with Business Associate in order to mandate certain protections for the privacy and security of Protected Health Information, and those Regulations prohibit the disclosure to or use of Protected Health Information by Business Associate if such a contract is not in place.

Therefore, the parties agree as follows:

**1.0 DEFINITIONS**

- 1.1 "Disclose" and "Disclosure" means, with respect to Protected Health Information, the release, transfer, provision of access to, or divulging in any other manner of Protected Health Information outside Business Associate's internal operations or to other than its employees.
- 1.2 "Electronic Media" has the same meaning as the term "electronic media" in 45 C.F.R. § 160.103. Electronic Media means (1) Electronic storage media including memory devices in computers (hard drives) and any removable/transportable digital memory medium, such as magnetic tape or disk, optical disk, or digital memory card; or (2) Transmission media used to exchange information already in electronic storage media. Transmission media include, for example, the internet (wide-open), extranet (using internet technology to link a business with information accessible only to collaborating parties), leased lines, dial-up lines, private networks, and the physical movement of removable/transportable electronic storage media. Certain transmissions, including of paper, via facsimile, and of voice, via telephone, are not considered to be transmissions via electronic media, because the information being exchanged did not exist in electronic form before the transmission.
- 1.3 "Electronic Protected Health Information" has the same meaning as the term "electronic protected health information" in 45 C.F.R. § 160.103. Electronic Protected Health Information means Protected Health Information that is (i) transmitted by electronic media; (ii) maintained in electronic media.

- 1.4 **"Individual"** means the person who is the subject of Protected Health Information, and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).
- 1.5 **"Protected Health Information"** has the same meaning as the term "protected health information" in 45 C.F.R. § 164.503, limited to the information created or received by Business Associate from or on behalf of Covered Entity. Protected Health Information includes information, whether oral or recorded in any form or medium, that (i) relates to the past, present, or future physical or mental health or condition of an Individual; the provision of health care to an Individual, or the past, present or future payment for the provision of health care to an Individual; (ii) identifies the Individual (or for which there is a reasonable basis for believing that the information can be used to identify the Individual); and (iii) is received by Business Associate from or on behalf of Covered Entity, or is created by Business Associate, or is made accessible to Business Associate by Covered Entity. "Protected Health Information" includes Electronic Health Information.
- 1.6 **"Required By Law"** means a mandate contained in law that compels an entity to make a Use or Disclosure of Protected Health Information and that is enforceable in a court of law. Required by law includes, but is not limited to, court orders and court-ordered warrants; subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or any administrative body authorized to require the production of information; a civil or an authorized investigative demand; Medicare conditions of participation with respect to health care providers participating in the program; and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing benefits.
- 1.7 **"Security Incident"** means the attempted or successful unauthorized access, Use, Disclosure, modification, or destruction of information in, or interference with system operations of, an Information System which contains Electronic Protected Health Information. However, Security Incident does not include attempts to access an Information System when those attempts are not reasonably considered by Business Associate to constitute an actual threat to the Information System.
- 1.8 **"Services"** has the same meaning as in the body of this Agreement.
- 1.9 **"Use"** or **"Uses"** mean, with respect to Protected Health Information, the sharing, employment, application, utilization, examination or analysis of such Information within Business Associate's internal operations.
- 1.10 Terms used, but not otherwise defined, in this Paragraph shall have the same meaning as those terms in the HIPAA Regulations.
- 2.0 OBLIGATIONS OF BUSINESS ASSOCIATE**
- 2.1 **Permitted Uses and Disclosures of Protected Health Information.** Business Associate:

- (a) shall Use and Disclose Protected Health Information as necessary to perform the Services, and as provided in Sub-sections 2.3, 2.4, 2.5, 2.6, 2.7, 2.8, 4.3 and 5.2 of this Agreement;
- (b) shall Disclose Protected Health Information to Covered Entity upon request;
- (c) may, as necessary for the proper management and administration of its business or to carry out its legal responsibilities:
  - (i) Use Protected Health Information; and
  - (ii) Disclose Protected Health Information if the Disclosure is Required by Law.

Business Associate shall not Use or Disclose Protected Health Information for any other purpose.

**2.2 Adequate Safeguards for Protected Health Information. Business Associate:**

- (a) shall implement and maintain appropriate safeguards to prevent the Use or Disclosure of Protected Health Information in any manner other than as permitted by this Paragraph. Business Associate agrees to limit the Use and Disclosure of Protected Health Information to the minimum necessary in accordance with the Privacy Regulation's minimum necessary standard.
- (b) effective as of April 20, 2005, specifically as to Electronic Health Information, shall implement and maintain administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic Protected Health Information.

**2.3 Reporting Non-Permitted Use or Disclosure and Security Incidents. Business Associate shall report to Covered Entity each Non-Permitted Use or Disclosure that is made by Business Associate, its employees, representatives, agents or subcontractors, but is not specifically permitted by this Agreement, and effective as of April 20, 2005, shall report to Covered Entity each Security Incident of which Business Associate becomes aware. The initial report shall be made by telephone call to the Covered Entity's HIPAA Privacy Officer within forty-eight (48) hours from the time the Business Associate becomes aware of the Non-Permitted Use or Disclosure or Security Incident, followed by a full written report no later than ten (10) business days from the date the Business Associate becomes aware of the non-permitted Use or Disclosure or Security Incident to the Chief Privacy Officer at:**

Chief HIPAA Privacy Officer, County of Los Angeles  
Kenneth Hahn Hall of Administration  
500 West Temple St.  
Suite 410  
Los Angeles, CA 90012  
(213) 974-2164

- 2.4 Mitigation of Harmful Effect. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a Use or Disclosure of Protected Health Information by Business Associate in violation of the requirements of this Paragraph.
- 2.5 Availability of Internal Practices, Books and Records to Government Agencies. Business Associate agrees to make its internal practices, books and records relating to the Use and Disclosure of Protected Health Information available to the Secretary of the federal Department of Health and Human Services for purposes of determining Covered Entity's compliance with the Privacy and Security Regulations. Business Associate shall immediately notify Covered Entity of any requests made by the Secretary and provide Covered Entity with copies of any documents produced in response to such request.
- 2.6 Access to Protected Health Information. Business Associate shall, to the extent Covered Entity determines that any Protected Health Information constitutes a "designated record set" as defined by 45 C.F.R. § 164.501, make the Protected Health Information specified by Covered Entity available to the Individual(s) identified by Covered Entity as being entitled to access and copy that Protected Health Information. Business Associate shall provide such access for inspection of that Protected Health Information within two (2) business days after receipt of request from Covered Entity. Business Associate shall provide copies of that Protected Health Information within five (5) business days after receipt of request from Covered Entity.
- 2.7 Amendment of Protected Health Information. Business Associate shall, to the extent Covered Entity determines that any Protected Health Information constitutes a "designated record set" as defined by 45 C.F.R. § 164.501, make any amendments to Protected Health Information that are requested by Covered Entity. Business Associate shall make such amendment within ten (10) business days after receipt of request from Covered Entity in order for Covered Entity to meet the requirements under 45 C.F.R. § 164.526.
- 2.8 Accounting of Disclosures. Business Associate agrees to maintain documentation of the information required to provide an accounting of Disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528, and to make this information available to Covered Entity upon Covered Entity's request, in order to allow Covered Entity to respond to an Individual's request for accounting of disclosures. However, Business Associate is not required to provide an accounting of Disclosures that are necessary to perform its Services if such Disclosures are for either payment or health care operations purposes, or both. Additionally, such accounting is limited to disclosures that were made in the six (6) years prior to the request (not including disclosures that were made prior to the compliance date of the Privacy Rule, April 14, 2003) and shall be provided for as long as Business Associate maintains the Protected Health Information.

Any accounting provided by Business Associate under this Section 2.8 shall include: (a) the date of the Disclosure; (b) the name, and address if known, of the entity or person who received the Protected Health Information; (c) a brief description of the Protected Health Information disclosed; and (d) a brief statement of the purpose of the Disclosure. For each Disclosure that could require an accounting under this Sub-section 2.8, Business Associate shall document the information specified in (a) through (d), above, and shall securely maintain the information for six (6) years from the date of the Disclosure. Business Associate shall provide to Covered Entity, within ten (10) business days after receipt of request from Covered Entity, information collected in accordance with this Sub-section 2.8 to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528.

### **3.0 OBLIGATION OF COVERED ENTITY**

- 3.1 Obligation of Covered Entity. Covered Entity shall notify Business Associate of any current or future restrictions or limitations on the use of Protected Health Information that would affect Business Associate's performance of the Services, and Business Associate shall thereafter restrict or limit its own uses and disclosures accordingly.

### **4.0 TERM AND TERMINATION**

- 4.1 Term. The term of this Paragraph shall be the same as the term of this Agreement. Business Associate's obligations under Sections 2.1 (as modified by Section 4.2), 2.3, 2.4, 2.5, 2.6, 2.7, 2.8, 4.3 and 5.2 shall survive the termination or expiration of this Agreement.

- 4.2 Termination for Cause. In addition to and notwithstanding the termination provisions set forth in this Agreement, upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:

- (a) Provide an opportunity for Business Associate to cure the breach or end the violation, and terminate this Agreement if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity; or
- (b) Immediately terminate this Agreement if Business Associate has breached a material term of this Paragraph and cure is not possible; or
- (c) If neither termination or cure are feasible, Covered Entity shall report the violation to the Secretary of the federal Department of Health and Human Services.

### **4.3 Disposition of Protected Health Information Upon Termination or Expiration**

- (a) Except as provided in paragraph (b) of this section, upon termination for any reason or expiration of this Agreement, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or

created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

- (b) In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make it infeasible. If return or destruction is infeasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further Uses and Disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

## 5.0 MISCELLANEOUS

- 5.1 No Third Party Beneficiaries. Nothing in this Paragraph shall confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.
- 5.2 Use of Subcontractors and Agents. Business Associate shall require each of its agents and subcontractors that receive Protected Health Information from Business Associate, or create Protected Health Information for Business Associate, on behalf of Covered Entity, to execute a written agreement obligating the agent or subcontractor to comply with all the terms of this Agreement.
- 5.3 Relationship to Agreement Provisions. In the event that a provision of this Paragraph is contrary to any other provision of this Agreement, the provision of this Paragraph shall control. Otherwise, this Paragraph shall be construed under, and in accordance, with the terms of the Agreement.
- 5.4 Regulatory References. A reference in this Paragraph to a section in the Privacy or Security Regulations means the section as in effect or as amended.
- 5.5 Interpretation. Any ambiguity in this Paragraph shall be resolved in favor of a meaning that permits Covered Entity to comply with the Privacy and Security Regulations.
- 5.6 Amendment. The parties agree to take such action as is necessary to amend this Paragraph from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy and Security Regulations.

Effective: 4/30/05